AAFAF Hearing Exhibit 10

UNITED STATES DISTRICT COURT

DISTRICT OF PUERTO RICO

In Re:	)	Docket No. 3:17-BK-3283(LTS)
	)	
	)	PROMESA Title III
The Financial Oversight and Management Board for Puerto Rico,	)	(Jointly Administered)
as representative of	)	
The Commonwealth of Puerto Rico, *et al.*	)	July 14, 2021
Debtors,	)	

In Re:	)	Docket No. 3:17-BK-3566(LTS)
	)	
	)	PROMESA Title III
The Financial Oversight and Management Board for Puerto Rico,	)	(Jointly Administered)
as representative of	)	
The Employees Retirement System of the Government of the Commonwealth of Puerto Rico,	)	
Debtors,	)	

In Re:	Docket No. 3:19-BK-5523(LTS)
	PROMESA Title III
The Financial Oversight and Management Board for Puerto Rico, *as representative of* The Puerto Rico Public Buildings Authority, Debtors,	(Jointly Administered)

FURTHER DISCLOSURE STATEMENT HEARING

BEFORE THE HONORABLE U.S. DISTRICT JUDGE LAURA TAYLOR SWAIN

UNITED STATES DISTRICT COURT JUDGE

AND THE HONORABLE U.S. MAGISTRATE JUDGE JUDITH GAIL DEIN

UNITED STATES DISTRICT COURT JUDGE

APPEARANCES:

ALL PARTIES APPEARING TELEPHONICALLY

For The Commonwealth of Puerto Rico, *et al.*:	Mr. Martin J. Bienenstock, PHV Mr. Brian S. Rosen, PHV Ms. Margaret Dale, PHV
For Puerto Rico Fiscal Agency and Financial Advisory Authority:	Mr. John Rapisardi, PHB Mr. Peter Friedman, PHV

APPEARANCES, Continued:

For The Official Committee of Unsecured Creditors of all Title III Debtors:	Mr. Luc A. Despins, PHV
For The Official Committee of Retired Employees:	Mr. Robert Gordon, PHV Ms. Catherine Steege, PHV
For Peter Hein:	Mr. Peter Hein, Pro Se
For AmeriNational Community Services:	Mr. Nayuan Zouairaban, Esq. Mr. Arturo J. Garcia Sola, Esq.
For Cantor-Katz Collateral Monitor:	Mr. Douglas Mintz, PHV Mr. Douglas I. Koff, PHV
For Assured Guaranty Corp. and Assured Guaranty Municipal Corp.:	Mr. William J. Natbony, PHV
For Financial Guaranty Insurance Company:	Mr. Martin A. Sosland, PHV
For Ambac Assurance Corporation:	Ms. Atara Miller, PHV
For National Public Finance Guarantee Corporation:	Ms. Kelly DiBlasi, PHV
For The ERS Bondholders:	Mr. Benjamin Rosenblum, PHV
For U.S. Bank National Association, solely in its capacity as successor trustee:	Mr. Clark T. Whitmore, PHV

APPEARANCES, Continued:

For U.S. Bank Trust National Association:	Mr. Ronald J. Silverman, PHV
For the Underwriter Defendants:	Mr. Howard S. Steel, PHV
For Salud Integral de la Montana, Inc.:	Mr. John E. Mudd, Esq.
For PFZ Properties, Inc., and 1983 Group:	Mr. David Carrion Baralt, Esq. Mr. Russell Del Toro Sosa, Esq.
For Suiza Dairy Corp.:	Mr. Rafael A. Gonzalez Valiente, Esq.
For Finca Matilde:	Mr. Eduardo Capdevila Diaz, Esq.
For Vaquería Tres Monjitas, Inc.:	Ms. Wendy Marcari, PHV Mr. Gerardo Carlo Altieri, Esq.

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I N D E X

WITNESSES: PAGE

None.

EXHIBITS:

None.

San Juan, Puerto Rico

July 14, 2021

At or about 9:32 AM

* * *

THE COURT: Good morning. This is Judge Swain.

MS. NG: Good morning, Judge. This is Lisa, your courtroom deputy. Everyone is here.

THE COURT: Thank you, Ms. Ng.

Maria Luz, would you please call the case?

COURTROOM DEPUTY: Yes, Your Honor. Good morning.

The United States District Court for the District of Puerto Rico is now in session. The Honorable Laura Taylor Swain and the Honorable Judith Gail Dein presiding. God save the United States of America and this Honorable Court.

Bankruptcy Case No. 17-3283, *In re: The Financial Oversight and Management Board for Puerto Rico, as representative of the Commonwealth of Puerto Rico, et al.*, for Further Hearing on Disclosure Statement.

THE COURT: Thank you.

Good morning, everyone. Today's session continues yesterday's hearing concerning the Oversight Board's request for approval of the Disclosure Statement for the Fifth Amended Title III Joint Plan of Adjustment, and related procedures and deadlines. The Amended Agenda is filed at docket entry no. 17311 in case no. 17-3283.

I think that everybody who is on today was likely on yesterday, so I won't go through my full normal introductory instructions, but I do remind everyone that people with live lines should mute until it's their time to speak. Then when it is their time to speak, they have to unmute their phone. If they are using the Court Solutions dashboard interface, they have to unmute on that Court Solutions dashboard as well.

I also remind everyone that no recording or retransmission of the hearing is permitted by anyone, including parties, members of the public, or the press; and that, as usual, I will call on speakers during the hearing. If you are someone I have not called on who feels a need to speak on a particular topic, at an appropriate time, say, "I'm so and so. I would like to be able to speak."

You'll need to unmute and say that, rather than wave on the dashboard, because I won't see you if you wave on the dashboard. Then I will call on people as necessary. We have our buzz system in place as we did yesterday.

The timing that I have set for today is from now until ten to 12:00, that is 11:50 AM, with a resumption, if necessary, from ten past 2:00, that is 2:10, to 5:00 in the afternoon. We may be able to go through the morning session without a break. If we are in an afternoon session that's expected to go full length, I would probably break around 3:30, and if we break, I'll direct everyone to disconnect and

dial back in at a specified time.

I would also like to note that the Court has received and reviewed last night's filing of the Fee Examiner's Status Report and Notice Regarding the Application of Presumptive Standards to Plan Confirmation Hearing Attendance, which was filed at docket entry no. 17322 in case no. 17-3283.

In paragraph ten, the Fee Examiner reports that in response to the presumptive standards orders "the professionals subject to review generally have conformed -- almost without exception -- their application practices and post-application discussions to the standards and guidelines" approved by this Court. The Court is grateful for the report and expects continued compliance, and, specifically, efficient staffing and moderation of billings as we engage the efforts to move forward into consideration of a proposed plan of confirmation.

I understand that there is an update and a request for me, and so I will turn to Mr. Rosen for the Oversight Board.

MR. ROSEN: Thank you very much, Your Honor. This is Brian Rosen from Proskauer Rose. With me this morning again, Mr. Bienenstock and Ms. Dale for this hearing.

Yes, Your Honor. Throughout the day yesterday, the mediation team led by Judges Houser and Colton were working with the Oversight Board, and with Ambac and FGIC. And as of

this morning, we have reached a verbal understanding of an agreement with respect to Plan treatment that would obviate the need to go through their respective objections to the Disclosure Statement, as well as bring about their support for confirmation of a plan.

That understanding, however, Your Honor, is subject to some further work that must be done by the parties and the mediation team to bring on further agreement with some parties who were not involved in these last, immediate discussions. And even if there is an understanding there, Your Honor, that would obviously necessitate the documentation of that understanding, not only in probably a plan support agreement, which we would undertake immediately upon notification by the mediation team leader that the other parties are in accord with us; but also, Your Honor, that would then require a further modification of the Plan of Adjustment, and some modifications to the Disclosure Statement as well.

So what we would be asking the Court, Your Honor, so that we would not change the position that we are currently in, and by that I mean, as yesterday, we deferred on hearing the Ambac and FGIC objections until conclusion of these conversations, we would ask the Court to adjourn the Disclosure Statement hearing for ten days to allow the further conversations led by the mediation team and documentation to take place.

And then in the event that we were unsuccessful, and all the parties unsuccessful, that we would come back and hear the balance of the Ambac and FGIC presentations, as well as the Oversight Board responses to not only those, but the others to which they are actually linked. And that may have been put forth yesterday.

There are some other issues, Your Honor, that came up as part of yesterday, and if the Court -- I don't know if it saw the docket, but there were motions filed by both Ambac and FGIC yesterday seeking temporary allowance for voting purposes, with a hearing to be scheduled at the Omnibus Hearing on August 4th, with a very, very truncated briefing response, or response time to those.

And as a result of that, Your Honor, we would want to push those back as well, because we would want the time to focus on reaching the subsequent agreement and the papering of that, rather than further litigating and dealing with the temporary allowance. Because in the event that we do reach an accord, more likely than not, Your Honor, the agreement will actually provide for the allowance for voting purposes, and we wouldn't have to address these issues.

So, Your Honor, there are a lot of things that were actually up on the board -- I mean, that we would have to take into account. So we would respectfully ask the Court to adjourn the continuation of this Disclosure Statement Hearing

for a ten-day period or so, so that we could have what I hope would be a very short responsive time to the objections that were filed yesterday, rather than a much longer period of time.

THE COURT: So taking things in reverse order, first of all, congratulations on what I'm sure was very, very hard and serious work over not only the past few days, but last night.

Taking the questions in reverse order, the 3018 motions that were filed yesterday, I did notice them, and I saw that they were noticed up for the August Omni. So what you would be asking is that there be some agreement for them to be taken up not at the August Omni, but afterward, and briefed on a schedule that is not cued to the August Omni?

Is that what you're asking with respect to the 3018(a) motions?

MR. ROSEN: Yes, Your Honor.

My view would be that as long as there is a determination prior to the closing of the voting deadline, there really is no need for expedited consideration of that. So we could certainly lay that out over a longer period of time, and then allow the Court some time to consider it.

THE COURT: I'm amenable to that. I would just invite you all to meet and confer and propose some consensual schedule that makes sense to you, and that you think would

make sense to me.

Then, as to the larger question of what, if anything, we do today, we can adjourn. We can set a next hearing date for July 27th. I have ascertained that that is available with respect to both courts. That is a Tuesday. The Monday of that week is a holiday in Puerto Rico.

I will not require Ambac and FGIC to speak to their objections, nor the Oversight Board to respond to the Ambac and FGIC objections today, but my intention coming into this with the possibility of a requested adjournment was that -- to serve the interests of resolving the objections that have been put before the Court, using our time efficiently, and being able to flag disclosure related and solicitation procedure related changes that the Court anticipates requiring, in any event, and not slowing things down any more, and not as a de facto matter, losing the opportunity for confirmation proceedings in the late fall -- what I wanted to do is to have the Oversight Board respond to the arguments that were made yesterday of those parties.

I would not resolve the question of approval of the Disclosure Statement, because Ambac and FGIC issues are still outstanding, but I would want, after that argument, to address certain views on the objections that have been submitted and argued. As I suggested a minute ago, I anticipate directing that certain disclosure-related changes and solicitation

procedure related changes be baked into the next iteration of the documents, whatever that may be.

Also, setting Plan related discovery mechanisms in motion now, again, with the aim of not losing the opportunity to move into confirmation proceedings in the late fall, if there is no longer a request for me to deny Disclosure Statement approval and/or I approve the Disclosure Statement.

MR. ROSEN: Well, Your Honor, we certainly will follow your lead on all of this and be as responsive as we can be. As I mentioned yesterday, there are some of the objections that Ambac and FGIC have raised in their papers that cross over to some of those that were articulated yesterday, or in the pleadings of those that spoke yesterday, but we'll do our best.

And certainly, to the extent that you can give us guidance on items that you want us to include in the Disclosure Statement, and in solicitation procedures, and in the discovery, we would love to get that as soon as possible so that we could bake those into the respective documents and provide them back to the Court. And even to the extent of the discovery processes for confirmation, even begin to undertake that so that there is no risk to the fall confirmation schedule that we are hoping to get.

So we'll take your lead, Your Honor, and go as you wish.

THE COURT: Great. So if, as you are responding, there are particular issues that you would like to ask me not to address because of interaction with Ambac and FGIC, you know, feel free to flag those, and try to move forward in a way that is productive and appropriately cautious, but I think that you understand me and my desire to not be at a standstill for this substantial period of time.

So in aid of helping to shape some of the dialogue, I first offer some further comments and instructions concerning my intentions. So, you know, it's clear from the confirmation schedule that the Oversight Board had proposed that if we are working in this fourth quarter, 2021, time frame target for a confirmation hearing, there is little to no room for delays or gamesmanship.

So if the Court ultimately approves the Disclosure Statement and accepts the November confirmation schedule requested by the Oversight Board, there are a number of changes that will need to be made to provide us with a realistic chance of advancing discovery and briefing in a manner that is both fair and efficient.

So I intend to order the Oversight Board to begin preparing for discovery on a time frame that's substantially consistent with the Oversight Board's proposal, sort of as a practical matter as if we are moving into confirmation procedures, although I haven't granted that motion and would

not be granting that motion until after the Ambac and FGIC issues have been argued, if necessary, and resolved.

So this will all be subject to any further Court order that would halt the process, if necessary, but this would entail the Board's conversion of the Disclosure Statement depository into a confirmation depository basically today, and uploading all of the documents that you've agreed to upload within a week of today.

I understand that the undertaking that you have made to upload documents includes, you know, documents underlying and related to the deals that are set forth in, you know, PSAs that drive the plan provisions. Obviously, there are certain elements of deals that are still going to be in the negotiation stage.

So you can't put, you know, documentation on an Ambac-FGIC deal, and then find out there is no Ambac-FGIC deal, for example; but the other material that, as of the time of the proposed Fifth Amendment, that you would be putting there, would be required to be put there within a week. I think that's a critical step towards meeting that ambitious time frame.

Everybody's going to be expected to act in the utmost good faith in the discovery process. Judge Dein will be overseeing that. I'll expect both the Oversight Board and AAFAF again to act in utmost good faith and response to

discovery requests without undue delay or obstruction.

I will be allowing some interrogatories, and will be setting time frames for responding to written discovery. So parties that are propounding discovery, also have to use their utmost good faith efforts to limit their request to ones that target critical contested issues, rather than broaden what are arguably overly burdensome fishing expeditions, so that we don't have a lot of discovery disputes as to large volumes of objections that would slow the process down.

I also intend to require the Oversight Board to file early on, to essentially make the first disclosure move. So it would be the Oversight Board that would first file witness and topic lists, together with a brief that gives an overview of its anticipated legal arguments, and proof, and that would come in before the objections to the Plan.

Entry into the depository would not require a clairvoyant preview of the objections, but rather a notice of intention to object. The objections themselves flushed out would come later in the discovery period, and then, of course, the Oversight Board would be replying much later in the discovery period and prior to the, you know, commencement of the trial.

Also, the Court's view is that the point of provision of a draft confirmation order well before the trial commences, with opportunity for scrutiny of that, and filing of any

objections, so that it's clear what is in contention about legal theories in particular, is a salutary procedure. So the procedure that I'm contemplating tentatively putting in place so that everyone has a sense of how the timetable would work would also include that sort of early deadline for filing of a proposed confirmation order. So those are some big picture issues and intentions that I hope will help to guide this discussion.

As to the argumentation with respect to approval of the Disclosure Statement, it is my view at this point that the objections that have been made and argued so far did not frame fundamental and patent unconfirmability of a plan, and, thus, don't require the denial of the approval of the Disclosure Statement; but that certain of the arguments regarding insufficiency of disclosure do raise issues that ought properly to be engaged.

So, Mr. Rosen, I hope that that is helpful to you in framing your approach to remarks on the matters that were argued yesterday. Do you want to make any general comments before responding to the Disclosure Statement content arguments, or do you want to jump in?

MS. DALE: Your Honor, this is Margaret Dale.

THE COURT: Yes, Ms. Dale.

MS. DALE: Sorry to interrupt. Mr. Rosen has just had to reconnect.

THE COURT: Ah.

MS. DALE: So if you could just give us one moment. Sorry.

THE COURT: Sure.

MR. ROSEN: Your Honor, it's Brian Rosen. I switched phones. So now I'm on Ms. Dale's dashboard, but hopefully this will work.

Your Honor, that does help us considerably, and I appreciate your words with respect to some of the unconfirmability points, because I think that will even shorten some of the issues more for this morning.

We can certainly try to do some responding to some of the absolute points right away, or we can try to address the classification issue first, Your Honor. And if so, I would turn it over to Mr. Bienenstock, who will be addressing that point.

THE COURT: Okay. Let's start with the classification issue, and we'll start running our timer on the 93 minute time frame; but since that also anticipated your responding to Ambac and FGIC, I'm expecting that, you know, you most likely won't need all of that time, but you won't hear a buzz until minute 91.

Okay. So, Mr. Bienenstock? You need to unmute on the dashboard and your phone.

MR. BIENENSTOCK: Thank you, Judge.

Martin Bienenstock of Proskauer Rose, LLP, for the Oversight Board, as the debtors' Title III representative. Good morning.

THE COURT: Good morning.

MR. BIENENSTOCK: On the classification issue, we know all the parties know how thoroughly and carefully the Court goes through the pleadings in advance of the hearing, so I will do my best not to regurgitate what we've put in writing, but just to make some -- what I think are the key points about classification.

First, Section 1122(a) of the Code made applicable by 301(a) of PROMESA provides permission to put similar claims in the same class, but there's no mandatory language. So, you know, we start with the statute. 1122 uses the words may place -- the words may place a claim or interest in a particular class, only if such claim or interest is substantially similar to the other claims.

And, of course, we explain that our pleadings -- that Section 1129(b)(1)'s provision about unfair discrimination would have no application in the Bankruptcy Code or PROMESA, if you could not have two classes with different treatments in the first place.

I understand that the Creditors' Committee -- which as everyone knows we've now settled with, but some people were relying on its pleadings for the classification objection --

in its sur-reply, it said that our 1129(b)(1) argument goes to cram down, but that's not really the case. It wouldn't have a purpose there if you couldn't have two classes in the first place, with similar claims having different treatments. So the statutory language, we believe, sort of begins and ends the inquiry.

The other big issue, though, and -- that the parties seeking or propounding classification objections use is, of course, *Granada Wines*, the First Circuit case. And, again, so as not to repeat what's in the pleadings, I'll start simply by responding to something that came up in the Committee's sur-reply.

In the Oversight Board's pleading, we had commented that, at most, *Granada Wines* contains dicta about having to put unsecured claims all in the same class. And the response to that in the sur-reply was that it's not dicta. And it got into a battle with us about, well, what's the definition of dicta. We said it's just anything that's relevant, but not essential to a holding. And they said no, it's just anything the Court says in route to its holding.

Your Honor, I'd like to offer the Court a completely different view in response to what the sur-reply said about dicta. The different perspective I would ask the Court to consider is standing.

In *Granada Wines*, did any party, the debtor, or the

objecting parties to the Plan have standing to assert that all of the unsecured claims had to be put in the same class? And the answer is clearly no, because there was only one class in the first place.

So if no party, if no litigant had standing to get a ruling that all unsecured claims have to be in one class, how could a court comment about that be a holding if no one had Article III standing to ask for it in the first place?

And I would submit that that should dispose of the issue, at least the -- one of the arguments demonstrating that the First Circuit's decision in *Granada Wines* is not authority that this Court must follow in terms of classification in a case under PROMESA.

And, of course, along with that goes the fact that in *Granada Wines*, not only was there only one class of unsecured claimholders, the concept of two classes came up in the hypothetical that the debtor raised that it could have put claims in separate classes, but it didn't. As the First Circuit reminded it, it didn't.

But the First Circuit did not, in that case, have a situation where there were tens, hundreds, thousands, or in our case, hundreds of thousands of retirees, each having separate claims. And I can only imagine that if and when this issue comes up to the First Circuit, whether it be in the context of the Commonwealth's case or some totally unrelated

reorganization case, it would not be surprising, I submit, if the panelist in the First Circuit burst out laughing that the ruling in *Granada Wines* could be authority to -- could be interpreted today to require classification in one class of thousands of retirees who get pensions based on their lifetimes, and other unsecured commercial claimants who get lump amounts.

It's just not rational that appellate judges in the Federal Circuit Courts would have taken *Granada Wines* to issue a rule that would have -- that would have such an implication for a factual situation that was not in front of them. And along those lines, and tying back to the standing argument that I mentioned earlier, it cites the Court to the Supreme Court's decision in *Baker v. Carr,* 369 U.S. 186, at page 204, which was also quoted in *Valley Forge Christian College v. Americans United for Separation of Church and State*, 454 U.S. 464, at page 486, where the Court went out of its way to say that, you know, the purpose of the standing requirement for Article III standing is to have concrete adverseness, which sharpens the presentation of issues upon which the Court so largely depends.

Clearly, in *Granada Wines,* none of the litigants here can pretend that there was any sharpened presentation to the First Circuit in *Granada Wines* about putting in one class, retirees and commercial claimants.

And on the classification issue, I just want to make one final point. The Committee, in its sur-reply, and even before it's sur-reply, purported to answer a question that the Judge asked -- that Your Honor asked at an Omnibus Hearing a few months earlier about how can you put retirees and commercial claimants in the same class, given that one is paid based on lifetimes and the other is not.

And the Committee -- the Committee proposed its solution. Its solution was a class that contains the commercial claimants and the retirees. And for the commercial claimants, they get paid their claim, minus something they called a percentage reduction. And for the retirees, they get paid according to the formulas that we had in our plan. And one is supposed to be similar to the other, but not identical, which the Committee concedes in its brief.

And, Your Honor, I would just say their solution is proof positive that their argument doesn't work, because the solution they proposed violates the Bankruptcy Code in that it gives different treatments to claims in the same class. And so they tried to come up with a solution, but they couldn't.

And subject to any questions the Court has, I would move on from classification at this point, if that's okay.

THE COURT: I do have a couple of questions, and, you know, these go to determining the degree to which *Granada Wines* drives the classification determination under PROMESA.

Now, am I correct in recalling that *Granada Wines* doesn't either cite Section 1122, or use the phrase "substantially similar" at any point?

MR. BIENENSTOCK: Yes, Your Honor. You're correct.

THE COURT: It also seems to me that to the extent there's an argument that *Granada Wines* was background interpretation of the law at the time that PROMESA was enacted incorporating Section 1122, that PROMESA didn't assume that litigation under the Title III would necessarily be in the First Circuit, since PROMESA includes the alternative venue provision, which would have allowed the Oversight Board to file in a different district.

So I'd invite you to offer any comment you have as to whether -- if we're trying to discern what congressional intent would be as to the interpretation of 1122 under PROMESA, what default rule or background legal rule Congress might likely have had in mind, given that there is a majority approach in the country to which *Granada Wines*, as it's been applied in the First Circuit, appears to be an outlier.

MR. BIENENSTOCK: Yes. Thank you, Your Honor.

So leading up to 1122, as we explained in our briefing, there had been bankruptcy bills in Congress requiring the placement of uninsured claims, similar unsecured claims in the same class, and they were not the bills that finally made it into law. So that's number one.

Number two, you know, *Granada Wines*, as we also pointed out in our pleading, based its -- what we consider its classification dicta on a chapter 10 case that, in turn, based its classification language on the rule for secured claims, which doesn't apply to unsecured claims.

In addition, the language in PROMESA Section 301(e), that in the sur-reply, again, they say that since that language says the Court -- the Oversight Board should consider priority in security in classification, that's in putting claims in the same class, it -- there was no need, and it didn't address what should be considered in putting claims in different classes; and, you know, that's why we have the unfair discrimination test in 1129(b)(1), which isn't even triggered if classes accept the Plan.

And, again, if there was one rule that Congress could be said to have been aware of, it's that classifications should never be based on gerrymandering. That is, in creating a class of claims simply to obtain an accepting class for purposes of Section 1129(a)(10) of the Bankruptcy Code.

The Plan at issue here in our plan of adjustment, as the Court knows and is undisputed, we have many accepting classes. We know that because of all of the plan support agreements that we have with different groups. So gerrymandering is the last -- is just unnecessary here, so that can't be the motive. The motive is, as we explained, one

gets paid for life; the other does not, and that sort of dictates the classification.

So I think for all those reasons, if Congress had thought that contrary to what was going on throughout the country, where retiree claims are classified separate from commercial claims, that they wanted a different rule, they would have said something, whether in the statute or the legislative history, but none of the objectants here, Your Honor, cite to any of that, because Congress didn't say it.

So they're really basing their argument on legislative silence, which is a very treacherous, treacherous road.

THE COURT: Thank you. You can go on from classification.

MR. BIENENSTOCK: Okay. Thank you, Your Honor.

The other two topics I plan to cover will be a bit shorter now based on Your Honor's observations just before I started, because as I understand it, we're not here to argue issues that will be confirmation issues. But the two that I will address, at least to the extent that it might be helpful and might be beyond just confirmation issues, are the preemption issues in the context raised by AAFAF, and dischargeability, which was a separate issue raised by other litigants.

I do want to say that on preemption, while AAFAF

certainly raised it yesterday in a big way, and I think it's important to address it, it also dovetails with objections that Ambac and FGIC made and other litigants made. And if it's okay with the Court, I'm only going to address preemption now as it relates to the argument AAFAF made, and would reserve for a hearing that may not be necessary later on the other preemption argument that Ambac and FGIC are making.

Now, as I said, other parties did rely on overlap with those. So if necessary, I'd like to cover that when we reconvene. But, anyway, I'll start with AAFAF, if that's okay with the Court.

THE COURT: Yes.

MR. BIENENSTOCK: Thank you.

First I want to point out some points, a very important point of agreement between AAFAF's argument yesterday and the Oversight Board's position. First, it mentioned the progress that has been made between the government and the Oversight Board when they've worked together.

And I want to double and triple the reaffirmation on the Board's side of the hope that that will carry over to agreement to resolve AAFAF's argument that it made yesterday about the Plan of Adjustment. And the Oversight Board will definitely be focusing, and ready, willing and able to meet with the government to try to get to a consensual resolution.

Second, AAFAF raised the -- its entire argument yesterday was really premised on the importance of pensions for retirees, and it wanted both larger payments and to eliminate the freeze in increasing benefits for active workers in the defined -- in a defined benefit sense. And the plain agreement that exists between AAFAF and the Oversight Board, it is very important. I think we both agree that it is critical. And the retirees of Puerto Rico have every right to dignified retirements. Those who work for the government, worked for many years during, you know, the best years of their lives. They were made promises. And to the maximum extent possible, those promises should be kept so they can have dignified retirements. There's no disagreement on that, and these are not just words.

From the inception of the Oversight Board back in 2016 and 2017, when it -- they were able to start getting things done, the treatment of the retirees' pensions has been favored and foremost on the agenda. It was -- from the outset, the Board proposed a distribution to retirees well in excess of distributions to other unsecured claimants.

I mean, frankly, we're now in the 95 percent range. We were always, I think, in the 90s. And as the Court knows, we've been, on the one hand, criticized for that, that other creditors are getting less, or other creditors saying, we want the same treatment as the retirees.

The Board was also instrumental in formulating the Pay-Go plan, because since the pension plans are effectively zeroed out of the funding, the pensions have to be paid from the annual budget. And the Oversight Board was first in line in making sure that happened, and that the retirees get what they're supposed to get. And there's been no reduction in the payments to retirees up until now.

So those are important points of agreement, I think. And everyone's to be commended for assigning such importance to giving retirees dignified retirements in Puerto Rico.

Where we part company, hopefully temporarily, with the government is the government said, well, we want them paid more, and we want to end the freeze. And AAFAF emphasized at the outset of its argument yesterday that it was just a limited objection. Your Honor, I want to -- I can't emphasize more, this is no limited objection.

Probably not by coincidence in timing, the two houses of the Legislature passed, and the Governor signed what's now called Act 7, which the Oversight Board sued to nullify a few weeks ago. And Act 7 basically puts the pensions back to the defined benefit program that certainly was a major factor in getting the Commonwealth into financial distress, and went further than that. And by -- eliminating the freezes in increasing the defined benefits as time goes on, as our complaint explains, increases the liability for pensions that

future generations of Puerto Ricans will have to pay approximately 17 billion dollars.

In that same legislation, AAFAF says that, or it -- the government passed a law that says that the government may not expend resources hoping to achieve or to attain any plan of adjustment that does not correspond to the terms that it built into Act 7, which, again, would reinstate the defined benefit program, increase liabilities 17 billion dollars, increase current payments to pensions under the Plan, so to eliminate any discount whatsoever.

And I guess recognizing that money is finite, they put a limit of 57 or 58 percent on the amount that could be paid to the petition date claims. That's without interest for the last five years. So 58 percent of the claims, as of 2017, on what can be paid to GO bonds, and a condition that if you happen to own a GO bond that's contested, contested on the ground that it was beyond the authority of the government under the Constitution of Puerto Rico to issue, because it would have exceeded the debt limit and so forth, that you can't get any payment whatsoever unless you litigate and prevail in the very action that is settled in the Plan of Adjustment proposed on the table now.

So to go back to explain AAFAF's, "limited," objection, what AAFAF is saying to the Court and all the parties is, we want to impose 17 billion dollars of additional

debt burden on Puerto Rico. We want to get rid of the Plan of Adjustment on the table that's based on settling with the contested bondholders, settling with the uncontested bondholders. And by imposing those extra -- the extra debt burden and financial burden of enhanced pensions, they basically scuttle the entire plan we have, because we won't have the money to pay anything that we've promised to pay under the currently proposed plan.

Now, AAFAF defended its position. It didn't spell out the consequences that it was really talking about that are really at issue, but it defended its position on the ground that preemption would not enable the Oversight Board to issue the debt it needs to issue under the Plan to carry out the agreements it's been making with all these creditor groups. And the simple answer to that is that at -- section 1123(a)(5)(j) of the Bankruptcy Code, again, incorporated by 301(a) of PROMESA, expressly says that the Plan shall provide for the issuance of securities of the debtor, et cetera.

So with the express language, we don't think there's much question that preemption allows us to do that. But what AAFAF is -- although it didn't spell it out again, what it was referring to, we believe, is a more nuanced consequence of the government's failure to cooperate.

Its failure to cooperate could mean that there are issues as to whether the new debt will be tax exempt, and

issues as to whether the municipal bond market will recognize the debt. Although, frankly, although AAFAF makes a big issue of getting the Commonwealth's full faith and credit for the new debt, let's look at what the government and Act 7 have done to the Commonwealth's full faith and credit.

According to the Commonwealth, first, before PROMESA even existed, they put a moratorium on paying interest on the GO debt that had the full faith and credit of the Commonwealth government. Now, after about five years of not being paid, they want to eliminate the settlements with the bondholders and limit what they can get for all of their full faith and credit and constitutional protections and priorities. And they want to force a litigation of those issues.

So I guess everyone can reach their own conclusion as to whether the conduct of the government to date has improved or not the image of the Commonwealth's full faith and credit. And the importance of having that in a debt market certainly seems that -- a Federal Court order under a federal statute is a whole lot more clear and comfortable than the full faith and credit, if it's going to turn into what the full faith and credit of the existing bonds has meant during the last five years.

Now, I want to go back to the beginning. There's no good reason why the bondholders should have to put up with less than the maximum value that can be attained for those

bonds based on the cooperation of the government and the Oversight Board. But as much as we want to achieve it -- and for what it's worth, I think we can and will achieve it, and the Board certainly hopes to get there -- the Board has statutory missions of attaining market access for the Commonwealth and fiscal responsibility.

Under no circumstance is the Board going to allow the Commonwealth to undermine PROMESA, which makes the Board the sole proposer of a plan of adjustment, and to impose its own plan that increases debt burden 17 billion, creates pension obligations that we submit cannot ever be fulfilled, and will get the Commonwealth back in the exact same position it was in 2016 and '17.

We need to go in the opposite direction, as does the Commonwealth Government. And because I think these things are so clear, and a lot of them come down to simple arithmetic, I will close that part of the argument simply by saying I hope we can sit down and reach an agreement that's good for everybody.

The requirement and need for the dignity of Puerto Rico's retirees is foremost on the Board's mind, but likewise, we can't accomplish it in a way to put the Commonwealth back in the same position we found it and have worked for four or five years to fix.

So I will end that on a ray of hope that we reach

agreement, and that's what the Board is going to be focusing its energies on. If the Court has --

THE COURT: I --

MR. BIENENSTOCK: Go ahead.

THE COURT: I do. So I certainly encourage the parties to both hope and work toward cooperation, because that clearly would be in the best interest of the people of Puerto Rico and all of the stakeholders. Having said that, do you have a plan B, a preemption-based plan B that would give you a legal basis for seeking to deliver, through the Court, all of the attributes of the securities that are called for under the Plan, and also dealing with what seem to me to be its statutory repeal and certain statutory enactment features of the Plan as currently proposed.

If you do, I think that is one of the disclosure issues that I am concerned about. I think that has to be spelled out in at least high concept terms, and the risks of -- you know, the risks of failure to get legislation, and risks associated with proceeding and seeking to implement the Plan on the preemption theory would also need to be disclosed. So I invite your response.

MR. BIENENSTOCK: Well, sure. And thank you, Your Honor.

In terms of disclosure, you know, if for some reason it can't be done, it won't be feasible, then, you know,

it's -- everyone's vote will be moot. So we didn't really see it as a disclosure obligation, because votes will only have meaning if the Plan is confirmed.

In terms of plan B, as Your Honor referred to it, the plan B starts with 1123(a)(5)(j) asking the Court to, you know, issue a confirmation order that does exactly what (a)(5)(j) says, which is provide for the issuance of the securities.

As I explained earlier, the nuance is whether we would get tax exempt treatment from a federal tax point of view, and whether the creditors who wanted the comfort of the Commonwealth legislation would get that. And what -- whether they -- whether they will feel they need that at the end of the day, as opposed to, if we don't reach a deal with AAFAF, whether they would want to kill the whole plan or go forward in the best way possible. Hopefully we'll never have to find out, but that's something that would be left to negotiations and discussions ongoing, if it comes to that.

I guess if we start the confirmation hearing, and even after that, if we end it without having a deal with AAFAF and the rest of the government -- and I want to emphasize, Your Honor, that today, since the Governor is in a different political party than the two legislative houses, you're really talking about -- there's no one central discussion. There are three discussions to be had, and it's not simple.

So this is -- this is really not -- it can't really be prescripted. The only thing I think we can say is that we would be simultaneously working with the Governor and the two legislative houses. We would, as necessary, be working with the IRS, the Federal IRS about the tax exempt treatment, to try to either attain the legislative blessing, which would be optimal, or to get the same outcome for bondholders by getting tax rulings, et cetera. But I don't know that we can really prescript it now. We are --

THE COURT: But you can say, and there is a risk that if those efforts are not successful, that the proponent will not be able to demonstrate the feasibility of the Plan.

MR. BIENENSTOCK: Absolutely, Your Honor. We can definitely add that, Your Honor.

THE COURT: To be confirmed --

MR. BIENENSTOCK: Right, we agree. We can add that.

THE COURT: Okay. So you can go on.

MR. BIENENSTOCK: Thank you.

I was going to shift now to the dischargeability issue, which, based on Your Honor's earlier comments, I'm inferring that it's a confirmation issue, and I shouldn't really try to argue it now. And I'm certainly not going to get a ruling now, so I'll just be very high level on that, and then, of course, answer whatever questions the Court may have.

THE COURT: Thank you.

MR. BIENENSTOCK: There are three basic decisions at issue: There's the 9th Circuit decision in *Cobb v. City of Stockton*, 909 F.3d 1256. And even though that appeal was dismissed for equitable mootness, the 9th Circuit made very clear that they regarded the taking claim as just an unsecured claim that could be impaired like any other unsecured claim.

Then there's the 8th Circuit's decision in 1941 under the Bankruptcy Act of 1898, as amended. *Poinsett Lumber & Manufacturing*, at 119 F.2d 270 (8th Cir. 1941), where similarly the Court -- the Court discarded any notion that a claim that it characterized as invested with constitutional sanctity beyond other forms of liability was not simply a claim that could be impaired by the Bankruptcy Act.

In opposition to that, various parties cite the City of Detroit case, where the concept of non-dischargeability of takings claims was supported, which we respectfully submit was simply a wrongful decision. And I would give one example, or if -- it's fairly routine in bankruptcy that, for instance, with adequate protection of secured claimholders, they only get adequate protection, which is a Fifth Amendment concept, of the value of their collateral for diminution in the value of the collateral that occurs because of the bankruptcy after the bankruptcy starts.

To the extent that the debtor has been using the collateral, and it's depreciated before the bankruptcy starts,

that doesn't count. The valuation is as of the petition date or the date that the creditor asked for adequate protection.

That's really what we have here. The eminent domain judgments and liabilities are pre-petition liabilities resulting in claims against the Commonwealth for payment. They are unsecured claims. No different, frankly, than an actor that commits a tort of property damage.

If the debtor destroys someone's car in a negligent accident before bankruptcy, they -- the debtor has effectively taken the car. But the car owner, the victim, doesn't have a non-dischargeable claim for a taking. The victim has an unsecured claim to be made whole for the car and whatever the debtor can pay. And that's really the issue that's being teed up here.

Now, separately, there are provisions where certain federal advances and credits under Medicare and other statutes may or may not be dischargeable based on specific provisions of PROMESA, and we're obviously dealing with those based on the statute.

And to the extent any are non-dischargeable, they will not be discharged, and they're not going to impair feasibility in any meaningful way or in any material way. But on the dischargeability issue, it's simply that. We think these are dischargeable unsecured claims, and the Court can decide them at confirmation.

THE COURT: Are there some eminent domain and inverse condemnation claims that have not yet been reduced to judgment?

MR. BIENENSTOCK: Almost certainly, Your Honor, yes.

THE COURT: Because even if you're right about judgments, and right about *Cobb*, *Cobb* did seem to turn to a great degree on whether there had been either a waiver of a claim to, you know, some sort of right to reclaim or have control over the property in a secured sense, and a situation that would be antecedent to that point.

Cobb cited several statutory provisions in California law under which, by reason of time or by actions, the claimant really had no road of going back and looking to anything other than the money -- money judgments or money awards that had been made. Here, the situation, the factual situation seems to be different. The claims in *Cobb* had been filed as unsecured claims, and I don't know that that is entirely the situation here.

So what are the core principles of *Cobb* that you would say apply here to the extent that the eminent domain and inverse condemnation claims are not on all fours with the background factual situation in *Cobb*?

MR. BIENENSTOCK: Your Honor, our legal position is really not even -- we think *Cobb* corroborates our position,

but our essential position is any pre-petition action, whether it's resulted in a still unliquidated claim, disputed claim, whatever, anything that was a taking pre-petition is a pre-petition unsecured claim. It's as simple as that.

THE COURT: You can go on. Thank you.

MR. BIENENSTOCK: Your Honor, Mr. Rosen advises me that in some cases, at the time of the taking, or reasonably contemporaneously with it, there was money put into a reserve in the Court for the claimant for the value of the property. And, you know, to that extent, they may have secured claims, which the Plan would honor obviously.

THE COURT: Thank you. I'm sorry?

MR. BIENENSTOCK: No. That's all I was going to say on the dischargeability issue.

Your Honor, if I might just make one more comment about preemption, because I know it's probably the premier issue or one of the premier issues raised by the DRA parties, it's simply this. PROMESA happens to have its Section 4, which says any inconsistent Commonwealth law is preempted.

It's important to recognize in the big picture that in every jurisdiction where bankruptcy law or PROMESA can apply, the law, whether statutory jurisprudence, common law, or both, provides for full payment of honest debts. It's obvious that all of that law in all the jurisdictions throughout the country and all its territories is preempted by

bankruptcy laws, because bankruptcy laws could serve no purpose if the law requiring payment of legitimate debts is not preempted.

In *Ohio v. Kovacs*, the Supreme Court determined that the fact that an obligation to pay money arises under statute still results in just an unsecured claim that's subject to the bankruptcy laws, and in *Ohio v. Kovacs*, that was a clean-up obligation for environmental contamination.

So applying that to this case, there's general Commonwealth law, including in the Puerto Rico Constitution, that, for instance, the GO debt must be paid, and with all available resources, before any other debt. At least before anything that -- other than what might have to be paid because of the police power.

There are other statutes that require the Commonwealth to appropriate money, for instance, to PRIFA, CCDA, HTA, which are at issue with the parties we think and hope we're settling with most recently, with other parties, and -- but those statutes are also statutes that, at least in part, the DRA parties rely on.

If the DRA parties were correct that those statutes are not preempted, then the question becomes why did Congress pass PROMESA? If we have to transfer money to HTA, PRIFA, et cetera, in sufficient quantities to pay all their debts, we can't reorganize the debts. And if the statutes pop back into

existence the day after a plan is confirmed, or pop back into enforceability, then there was no purpose served by the restructuring.

So we will argue that at confirmation, but since I sense the Court wanted us, to the maximum extent possible, to address the key arguments that were made yesterday, that's certainly the theme of our preemption arguments, vis-a-vis the DRA parties. And, Your Honor, those are -- subject to any questions the Court has, those are all the comments I was planning on.

And Mr. Rosen is prepared to cover the other arguments that were made yesterday.

THE COURT: I have a couple of additional comments that I think fall generally into the dischargeability bucket. So, first of all, and this comes, to some extent, from the papers, the APJ and the 1983 claimants say they don't see themselves mentioned anywhere in the Disclosure Statement. What is the proposed treatment of those claims?

MR. BIENENSTOCK: We regard them, Your Honor, as general unsecured claims, so they would be in the UCC's constituency.

THE COURT: Atlantic Medical Center made an administrative expense argument in their objection, and neither the argument, nor the question of whether a finding that they have an administrative expense claim that is valid,

has implications for feasibility was addressed in the reply.

MR. BIENENSTOCK: Your Honor, if it's okay, Mr. Rosen will respond to that.

MR. ROSEN: Your Honor, this is Brian Rosen.

Your Honor, Atlantic Medical is one of the medical centers that we have been having discussions with -- on and off, Your Honor, for almost a year. We believe that the Plan treatment that is reflected in the current Fifth Amended Plan is consistent with the understanding that we've reached with it. And although they've included that in their objection, Your Honor, we believe that that will all be withdrawn and not be an issue.

THE COURT: Thank you. I'll probably repeat this later. The DRA parties have an outstanding administrative expense motion, and also their adversary proceeding, and there have been statements regarding finding some schedule or way or context of addressing those if they are not to be settled.

Given that we are probably looking at a very tight litigation schedule toward the fall, I will be directing the Oversight Board and the DRA parties to meet and confer as to procedural context and methodology for queuing up those issues. I have in mind a meet and confer within the next week, and a filing of a status report by July 23rd on that.

MR. ROSEN: Thank you, Your Honor.

THE COURT: It's as good a time as any to say that.

So let me just see if there is -- okay. I think that covers my remaining questions on the dischargeability issue. So thank you very much, Mr. Bienenstock.

MR. BIENENSTOCK: Thank you.

THE COURT: So whoever's next --

MR. BIENENSTOCK: Okay. Mr. Rosen will pick up then, Your Honor. Thank you.

THE COURT: Thank you.

MR. ROSEN: Your Honor, this is Brian Rosen.

If I could just pick up on the DRA first. Well, Your Honor, what I'd like to do is based upon what your initial comments were about the unconfirmability aspects, I'm really not going to be addressing those today, as Mr. Bienenstock said. We'll include those issues in our briefing and in response at the confirmation hearing phase. So I'd rather deal with some of the specific information that people requested and that was raised yesterday during their presentations.

And the first one, Your Honor, is the DRA parties. And I take note of what several of the objectants said yesterday, which was specifically that they got the Disclosure Statement late on Monday night, and they didn't have a chance to look at it, and they didn't know if many of the things had been added.

So with that as a premise, I would just note that to

the point that you just made, we had included in the Disclosure Statement that got filed on page 528, note 424 -- and I apologize for having so many footnotes in a disclosure statement that we have to number one 424 -- but there was express information included in there, Your Honor, with respect to the DRA parties' motion for administrative expense claim for 800 million dollars. And the fact that we say that the DRA parties assert that their admin expense claim, and I'm shortforming it, if granted is non-dischargeable and, therefore, will survive the Commonwealth's Title III case.

Obviously, the Oversight Board and the Commonwealth have a different perspective about that, but we did include language in the Disclosure Statement to reflect the filing of the admin expense motion itself, and the risk that would come about in the event that the Court determined that the admin expense claim was valid and meritorious.

There, with respect to the meet and confer, Your Honor, we have no problem doing that. We know that this is something that is the subject of ongoing mediation efforts by Judges Houser and Colton, and we know that there will be an opportunity to sit down and speak with them, not only about the adversary proceeding that was commenced against the monolines, but also about all of the other issues associated with the Title III cases.

THE COURT: Thank you.

MR. ROSEN: Okay. Your Honor, the DRA parties also raised an issue about 1111(b), and I just want to say that it's not properly before the Court at this time. We will follow the dictates of Bankruptcy Rule 3014, and we will be happy to address that issue with them, obviously, as part of the meet and confer process.

Your Honor, and before I go through all of the other points that have been raised, and I actually will try to do this rather quickly, as you know, we had filed, in connection with our Omnibus Reply, a detailed chart which set forth the objections that had been raised in one column, the party who had raised it, and as well as our responses, and the inclusion of the language in the Disclosure Statement itself.

So I don't want to go through each and every one of those, because I know that the Court and your chambers, your staff, have carefully gone through those, and have your perspective with respect to it. I'll just try and address very quickly some of the high points that were raised by a few of the other parties yesterday, again, steering clear of the unconfirmability issues, because I don't think they are before the Court today.

Your Honor, Mr. Mudd had raised issues in connection with the financial information of the Commonwealth, and, again, that is in our chart. I don't think I need to address that.

There was a comment by Mr. Steel on behalf of the Underwriters; and Mr. Steel didn't really have any concerns about the Disclosure Statement itself, but rather he didn't like the form of the release or the reservation of rights that's provided for under the Plan of Adjustment. I would just note that at this point in time, the Underwriters, in -- which Mr. Steel represents, do not have a right to vote on the Plan, and, therefore, there really isn't an issue for the Disclosure Statement itself.

While I will continue to discuss this issue with Mr. Steel, we did incorporate much of the language, but being the dutiful lawyer that he is, he wants more language in there, the belt, suspenders, and pins, and everything else, to make sure that he has the rights preserved, which I think we already did do; but I'm happy to have that conversation with him again, some more.

U.S. Bank, Your Honor, did raise some issues. We think that certainly with respect to the PREPA issue, and the timing of the PREPA plan, that's not anything before the Court today, nor is it anything that we can actually do. It is going to work within the time frame or the timeline that it can work within.

The one thing I will say, Your Honor, is despite what counsel said, the claims against the Commonwealth will go away pursuant to the Plan of Adjustment. There will not be any

preservation of those claims. They will be discharged one way or the other pursuant to the Plan.

To the extent that there is a lack of clarity on that point, I don't think there is, but we will make sure that they go away, and there is disclosure clearly that will state that.

Mr. Carrion, on behalf of PFZ, was a the confirmation objection, as well as Finca Matilde.

The Suiza points, Your Honor, that were raised by I believe it was Mr. Gonzalez Valiente, he acknowledged at one point that all of the issues that he was raising, besides the fact that he had claimed there was a regulatory taking, and Mr. Bienenstock has already addressed that, they were, in fact, a feasibility issue. And as a feasibility issue, Your Honor, that, in fact, is a confirmation-related issue, so we will leave that for another day.

The other dairy producer as well, Your Honor, was a takings point that Mr. Bienenstock has already addressed.

There was a comment by Mr. Rosenblum. I know that he's looking for some additional language in there to make sure that the Plan and Disclosure Statement are consistent with the ERS stipulation. I will get together with Mr. Rosenblum, and we will make sure that that is so.

Your Honor, that would take me all the way to Mr. Hein, and Mr. Hein started off by pointing out what he considered to be an acknowledgment by the Board of a noted

deficiency in putting things in the Plan and Disclosure Statement. Your Honor, with all due respect, and maybe Mr. Hein didn't notice them before, they've always been in the Plan. They were in Article 70 at one point. I think it might now be Article 71, which details all of the provisions of the notes, as well as the exhibits which have always been in the Plan. To the extent that it was not included in the Disclosure Statement, we did so just as an abundance of caution, to make sure that there was some information there.

Mr. Hein refers to the discrepancy between a sectional reference -- page 46, I believe he refers to it as a reference to an Article 74. If, in fact, it was 74, I think it was just a transcription issue. It may have been Article 71.4 instead of Article 74.1, or section 74.1. And we'll make sure that that is accurate, Your Honor.

There are issues about the financial information, as we included in our reply, Your Honor. The law with respect to what a disclosure statement needs to provide is pretty clear, and it doesn't mean that we need to provide certified, audited financial information. Rather, we need to provide the information that we have, and that is exactly what is done.

Your Honor, to the extent that the Commonwealth has not gotten to 2018 or 2019 financials, and while the Governor at the public meetings has certainly stated that it's his goal, his intention to make sure that all of those are given

as soon as possible, they're just not available at this point. And as soon as they are, they will be made publicly available, and to the extent they are done prior to the voting deadline, we'll certainly put that information out there so people can have it. But the Disclosure Statement has everything that is out there, and under the applicable law, nothing more need be given.

There was a reference, Your Honor, that Mr. Hein noted, or that he was upset about with respect to the voting deadline and the applicability, if you will, to the retail versus the non-retail people. And there is a reason for the distinction, Your Honor, and it's one because of the retail class itself. And I know I might be jumping over to solicitation procedures, but inasmuch as that was all together, Your Honor, I thought I would address it.

The restrictions on trading to the effective date for the retail class, Your Honor, is necessary, because if a retail class votes to accept the Plan, they will be entitled to receive the retail support fee, and ATOP, which is the organization through which the collection of the ballots takes place, they will then -- ATOP will then need to separate those securities from the non-retail securities in order to distribute the retail support fee to the appropriate retail holders.

But conversely, Your Honor, if the retail class votes

to reject the Plan, they will not be entitled to the retail support fee, and the restriction will be lifted on the voting deadline, or shortly thereafter, because there will be no need for the restriction, there will not be any need to distribute that fee to those holders. So Mr. Hein, and any other retail investor, will be free to trade as he wants with respect to those retail securities, and the securities held by retail investors.

I hope that was clear, Your Honor.

THE COURT: All right. So if the retail class, of which Mr. Hein is a member, rejects the plan, then they won't be restricted even as -- even during the confirmation proceedings; is that correct? That they also won't get the fee?

MR. ROSEN: That's correct. They will not be entitled to the retail support fee, Your Honor. So as soon as the votes are calculated post voting deadline, and the determination is made as to whether or not that class accepted or not, and if the answer is not, all of those retail investors within that class will -- the restriction will be lifted, and they will be free to trade at any point forward.

So that will be roughly, you know, a month or so prior to the confirmation hearing, they'll be able to do what they want. They will still receive their distribution pursuant to the Plan. They just won't receive their allocable

share of the retail support fee.

THE COURT: Yes, and if they decide that they want to and can find someone to buy their shares so that they won't be the ones getting the distribution pursuant to the Plan, they would be able to do that?

MR. ROSEN: Absolutely, Your Honor. They'll be free to trade just like they are today.

THE COURT: You can go on to the next one.

MR. ROSEN: I will. Let me just check, Your Honor, because I think that really is --

THE COURT: There were some other Hein points I wanted to ask you about.

MR. ROSEN: Okay. Your Honor, I think those were all that I was going to respond to, so if I could address your questions, I'd be happy to do so.

THE COURT: Yes. So, Mr. Hein has objected to what he characterizes as lack of clear disclosure concerning the fragmentary bonds that will be issued to investors, and in particular with respect to the smaller retail investors' receipt of such bonds under the Plan. So I would like you to respond to his suggestion, which, you know, doesn't seem to me irrational, that there be an even clearer disclosure, perhaps in the form of a chart like the one that he presented on page 20 of his objection, as to what would be received in exchange for the existing bonds, and the fact that the exchange into

fragmentary bonds may have an impact on marketability and raised tax issues, which I suppose you would want to say, if you are mentioning them at all, that the investors should consult with their tax advisors on.

But to flag that difference up front in the Disclosure Statement --

MR. ROSEN: Your Honor -- I'm sorry. Your Honor, I think -- while we're happy to consider a chart or something else, I think Mr. Hein's concern is more that he would be receiving fragments, not with respect to the level of disclosure, but we will put information within the Disclosure Statement, as best we can, to further make clear to retail investors, or any holder for that matter, that they would be getting a menu of securities.

If you recall, Your Honor, this was the same issue that was raised by Mr. Hein in the context of the COFINA Plan, and afterwards, and the concern that he had about marketability. And we pointed out to the Court the way it was done was with the securities being distributed, and then further distributed among respective accounts at the brokerage accounts themselves.

But we're happy to include disclosure, and we'll take a look again at that chart, Your Honor, and -- to see what aspects of the chart we can locate and put in. And we can report back to the Court on the 27th with respect to that.

THE COURT: Okay. I'll be addressing specific timing, in respect of additional language, in that time frame in advance of the next hearing as we go along, but I appreciate your undertaking there. He also -- and I do agree that his objection was to the substance of the Plan, which is not a disclosure statement issue, but, also, I heard it as a front-end disclosure issue as well.

I recall that in COFINA there were complaints that were at least amplified post hoc over people being caught out unawares with the fragmentary bond situation. So I think it is appropriate to make sure the distributions contemplated is as clear as possible.

So yesterday he also argued that the Disclosure Statement fails to provide information required by Section 1125(a)(1) concerning the tax characteristics and consequences of the bonds.

MR. ROSEN: Your Honor, I know that he went into some length in his discussion about the COFINA situation again, and the post effective date IRS determination regarding exemption. Your Honor, we can only actually say what we know, which, at this point, we don't have any closure with respect to the IRS about what will be taxable and what will not be. But we will go through that once again, Your Honor, and, to the extent possible, we will supplement that so that Mr. Hein, to the best that we can, can be comfortable that we've done

appropriate disclosure.

But again, Your Honor, we can only say where we are, which is that the efforts have not really -- because the Plan is still being worked on, you don't go to the IRS before you know what is going to be issued, and until you've done the appropriate work with the Commonwealth and its advisors, like you did in the context of COFINA. So we will give all the information that we have as of this point in time, Your Honor. Absolutely. So we'll go through that one more time for Mr. Hein.

THE COURT: Thank you. To the extent that you can explain that there is a constraint on the ability to request advanced rulings, as when provisions are not fully set, that would be, I think, an appropriate contextual point as well.

MR. ROSEN: Thank you, Your Honor. Will do.

THE COURT: All right. So I have a note about going back to the DRA parties. There were general -- lots of arguments about disclosure of value of assets and that sort of thing, and I'll have some things to say about that; but in particular, the DRA parties, I believe, were arguing that one or more of their loan claims are secured by what they consider to be collateral in the form of sale proceeds, but that the Oversight Board has taken the position that that collateral has no value, and has not provided any information as to why it believes that the collateral has no value.

So, as a disclosure issue, first of all, is their characterization of your position right? If it is, why shouldn't there be information in the Disclosure Statement for a holder of such a supposedly secured security as to why the basis of the conclusion that the collateral has no value?

MR. ROSEN: Your Honor, we have been working with local Puerto Rico counsel, who are much more expert in this area than we are with respect to this asserted claim.

Just for your benefit, Your Honor, the DRA parties claim that they have a security interest in the disposition -- or the proceeds of the disposition of two particular buildings. We don't agree with that. There is no mortgage on the property there. As far as we know, there are no filings. There's only a reference in a document that they would have that entitlement.

Your Honor, we will modify the Disclosure Statement to set forth our position in that regard, and state, essentially, why we believe that they are unsecured creditors with respect to those buildings.

THE COURT: Thank you. Was there anything further that you wanted to say about the disclosure issues?

MR. ROSEN: No, Your Honor. I believe that our -- as I said before, the reply that we filed is very clear. It sets forth what can and cannot be -- or what has already been included. And we further modified two weeks later, Your

Honor, by adding more disclosure, and I'll call it the midnight filing before the hearing, although it was earlier than midnight.

But we believe we have addressed all of the concerns. And, of course, if the Court would like more things included, we're prepared to do that as well in order to accommodate the Court and any of its determinations.

THE COURT: Thank you. I did consider the written submissions beforehand, and I'll have some specific things to ask you to address when I get to that stage.

So what is next in your argument response agenda? We can leave aside the remaining solicitation procedure issues for the moment, unless you would like to go on and discuss those?

Specifically, in terms of the solicitation procedures, I have two concerns that lead me to have some intentions. One is the -- well, I would like to have some more clarity as to the extent to which you anticipate further objections to claims that would render additional claimants unable to vote, and how you would expect the 3018 motion process to work where you're only proposing to give notice potentially of objections to claims 20 days out from the voting deadline.

MR. ROSEN: Your Honor, we -- as you know, because we've been flooding you with Omnibus Objections, there are --

we've been pretty diligent in filing as many objections to claims as we can, reconcile, or go through and get those before the Court. And, at this time, we filed yesterday, I believe, a significant number of claims to be transferred to the ACR process, and those, in our view, are not subject to the voting pursuant to the Plan, also.

Your Honor, we don't foresee at this point any significant, if at all, objections to claims being filed really before the next scheduled Omnibus Hearing period, which I guess would be in October. So I think, Your Honor, except for those where there's already an objection on hand, or with respect to things like we've already talked about with respect to Ambac and FGIC, we wouldn't see any others needing to come before the Court for the 3018 purposes.

THE COURT: Now, will you be sending the notice of non-voting status to the people as to whom you have filed objections to claims that will be relevant to the voting period?

MR. ROSEN: Your Honor, I'm not -- I don't recall specifically, but we'll make sure that we do that, because I think they should get that.

THE COURT: What is your plan with respect to voting rights of ADR process claimants?

MR. ROSEN: Well, Your Honor, those are technically, at this point in time -- they are in dispute, although I don't

think we've formally -- because we transferred them into ADR, rather than file a formal objection to them, they're not technically objected to. But I believe, and I would have to confer with my colleague, Mr. Ma, that we would assume that they are non-voting claims at this time, if they are subject to ADR. And if it's not clear --

THE COURT: Would you tell them that?

MR. ROSEN: Yes, we would, Your Honor. Absolutely.

THE COURT: You'd provide the same notice as to people as to whom there are claim objections?

MR. ROSEN: Yes, Your Honor.

THE COURT: What is -- I don't think I have seen a notice of intent to request estimation of a claim, but that is referred to in the materials. So what is that, and how do you expect to provide notice of your intended affect of that notice of intent to request estimation?

MR. ROSEN: Your Honor, we included that as a -- just as we would normally do, as a routine manner in a confirmation process. At this point in time, we do not have any intention to -- we don't see the need to file a motion to estimate any claims for voting purposes, but if, in fact, we make that determination, we obviously would file a motion to do so.

We would provide notice, and in order to allow the claimant to have that opportunity to vote the claim as determined by the Court, we would obviously bring that to the

Court's attention, and seek whatever time the Court has in that regard. But we don't --

THE COURT: Thank you for clarifying.

MR. ROSEN: But we don't see the need right now, Your Honor.

THE COURT: All right. So back to the mechanics of 3018 motion practice. Especially since there are many small claimholders who have been the subject of objections to claims, it is my intention to make that final claim objection deadline, and the notifications that are tied to that, as an outside date, 40 days before the voting deadline, so that there would be time for someone to send in the 3018 motions. You know, we don't know what kind of volume of them there will be.

Then we'll set up -- I think, as I read your Disclosure Statement mechanics, that would mean that they would then within -- I forget what period of time it is, but a fairly short period of time, have to make the 3018 motion. We'll have to set up a procedure for a response and resolution of it, and then they have to get notice of the resolution, because you're requiring them then to ask for a ballot, receive the ballot, and get it in by October 4th.

So I don't see how all that could happen in a 20-day period. A 40-day period seems to me more appropriate and realistic. Are you going to try to talk me out of --

MR. ROSEN: No, I'm not going to try and talk you out of it, Judge. Let me just say that based upon the agreement that we've reached with the Creditors Committee, and the increased threshold for convenience claims, our thought process with respect to some of those smaller ones may change.

MR. DESPINS: Your Honor.

THE COURT: Yes.

MR. DESPINS: I'm sorry to interrupt. Luc Despins with Paul Hastings, on behalf of the Committee.

I know it's totally unorthodox to do this, but there was a statement made about claims being transferred -- having been transferred to the ADR -- ADR, not ACR -- not having the right to vote. That is not the way the order works right now in that -- meaning that ADR claimants have the right to vote.

And I just want to make -- I didn't want our silence to be deemed acceptance, because the current version does not provide for that. Basically, it allows ADR claimants the right to vote, which they should have the right to vote.

Sorry for the interruption.

MR. ROSEN: Thank you, Luc, Mr. Despins. And if I am wrong in that, I apologize, but whatever we've already provided, we'll -- and if that's what it says, Luc, that's what it will be.

THE COURT: All right. If it turns out for some reason that the deal is that -- isn't that, and that they

wouldn't have the right to vote, they will get the necessary notices?

MR. ROSEN: Yes, Your Honor.

THE COURT: All right.

MR. ROSEN: Your Honor, I apologize. I just -- you know, as we're in different areas of the country, instead of being all in front of you, I just did get a note that we may have some items for estimation, perhaps ten, maybe one or two more. So --

THE COURT: So I will assume that you will cue those up as promptly as possible.

MR. ROSEN: Posthaste, as they say. Very quickly.

THE COURT: Okay. Sorry. I'm just looking at my notes.

It seems to me that the confirmation hearing notice should make it clear that creditors who either aren't getting to vote, or don't get to vote, or don't vote would still get paid any distribution they're entitled to under any confirmed plan. Would you have an objection to including such language in the confirmation hearing notice?

MR. ROSEN: No, I wouldn't, Your Honor, with the one caveat that we would just make sure that it reflected that as to the extent that their claims are ultimately allowed.

THE COURT: Yes. I think -- okay. So you can go on to -- yes. I think that those are the questions I wanted to

ask you about that.

We have about ten more minutes to the break, so are there further arguments or remarks that you want to make before the break?

MR. ROSEN: Your Honor, if you don't mind, Ms. Dale is in the room here with me. If I could turn it over to her for the confirmation procedures, and she can address those very quickly.

THE COURT: Actually, I realize -- I take it back. I want to flag for you asset-related questions. So as to -- it wasn't clear to an objector, and wasn't clear to us, whether certain accounts that were categorized as potentially inaccessible or potentially available in a December 2020 presentation, whether those are included in an inconclusive category, and whether a disclosure concerning potentially inaccessible, potentially unavailable accounts would be appropriate?

MR. ROSEN: Your Honor, I apologize. What I would like to do is just verify that with our two people who worked on the cash restrictions analysis. And we will look at that, and to the extent that we can further supplement what we've done already, we'll do so. I just don't have that information in front of me right now, Your Honor. I'm sorry.

THE COURT: Okay. Would you also consider during the break, if you can, I have a concern about keeping entirely off

of the financial disclosure the potential value of any assets that might be -- or any mention of assets that might be required, that might be subject to the Fiscal Plan Compliance Act cataloging and reporting to the evaluation and disposal committee; and considering whether disclosure that there is the Fiscal Plan Compliance Act, there are creditors who are doing investigations and may contest the Oversight Board's position as to unavailability of the -- of those assets for inclusion in the Plan, which could have implications for feasibility determinations?

I think I had some more specific language in mind, but that is the conceptual approach that I was thinking of to disclosure regarding real property that might be subject to that Fiscal Plan Compliance Act provision. So you can think about that and talk to me after the break.

MR. ROSEN: We will, Your Honor.

THE COURT: Thank you.

All right. Ms. Dale?

MS. DALE: Your Honor, it's Margaret Dale from Proskauer Rose for the Financial Oversight Board.

Thank you. I was going to address the confirmation procedures motion, and I appreciate the remarks that you made at the beginning of the hearing today, because I think you obviated 99.9 percent of what I was going to say with your -- you know, with the intentions of the Court.

The only thing I wanted to address, Your Honor, was the comments that were made with respect to the Disclosure Statement depository yesterday by Mr. Hein. I just want the Court to be aware that, you know, it is not a, quote, jumble of documents. There are 18 categories, with descriptions of the documents.

There are a lot of documents in some of the categories, and that's because we included, in particular, the productions that we've made in the cash and asset 2004 motions, and we've made all of those documents available. So in some of the categories, there are very, very many documents, but that was because we wanted to be complete with respect to the disclosures that we've already made with respect to cash and assets, Your Honor.

And I just wanted to also point out that other than Mr. Hein's complaint about having difficulty accessing the depository documents, we really only had one other substantive issue, which we worked out. We think it's been a very successful endeavor.

As of July 12, Your Honor, we have 145 data room users. Fifty-three of them signed on to the protective order. And we're allowing nine law firms to utilize the SFTP access option.

And, finally, Your Honor, we will begin to add documents and transition the depository to a confirmation

depository immediately.

That's all I had, Your Honor.

THE COURT: Thank you.

So, at this point, let's begin the mid-day break. Please sign off, and then be back on ready to proceed at ten past 2:00. Thank you all very much.

I'm sorry. Did anyone else wish to say something?

MS. MILLER: Your Honor.

THE COURT: Yes.

MS. MILLER: Your Honor, Atara Miller from Milbank.

I was just wondering if I could take care of one small housekeeping item in the couple of minutes we have before the break.

THE COURT: Sure.

MS. MILLER: Thank you. And thank you again for your accommodation and flexibility yesterday with the schedule.

You know, we're pleased, as Mr. Rosen announced this morning, to have been able to reach an agreement with the Oversight Board. And we thank the Oversight Board and, of course, the endless efforts of the mediation team, Judge Houser, and Judge Colton in getting it done.

Just one housekeeping item. I know Mr. Rosen mentioned the pending motions that we filed yesterday. There are also, as you know, supplemental briefings due on Friday in connection with the revenue bond matter, and so I just wanted

to flag for the Court that we do intend to file a motion asking the Court to stay those adversaries, so that we don't have to move forward with those briefings on Friday.

THE COURT: Thank you for making that clear. So I will look forward to that request being filed.

MS. MILLER: Thank you, Your Honor.

THE COURT: Thank you.

So if that's it, we will commence the break now, and we'll be speaking again at ten past 2:00. Thank you all. We're adjourned.

Please make sure that you disconnect, and then reconnect at ten past 2:00.

(At 11:44 AM, recess taken.)

(At 2:12 PM, proceedings reconvened.)

THE COURT: Good afternoon. This is Judge Swain speaking.

MS. NG: Hi, Judge. It's Lisa, your courtroom deputy. Everyone's here.

THE COURT: Thank you, Ms. Ng.

So we are continuing the proceedings on the Disclosure Statement approval motions with the limitations as subject matter that we discussed this morning.

Mr. Rosen, or Ms. Dale, does the Oversight Board have any further remarks to any of the limited matters that are before the Court today, that being the objections that have

been argued to the Disclosure Statement approval motion; the solicitation procedures aspect of that, and also the Confirmation Procedures Motion, insofar as that asks for construction of a model that includes a discovery schedule that, as I said, I intend to get put in place pending the finalization of discussions with the outstanding creditors and the adjournment to July 27th?

MR. ROSEN: Good afternoon, Your Honor. Brian Rosen, Proskauer Rose.

What I wanted to do was just briefly address the two points that you asked me about prior to our break, and, also, just bring up one other matter that caught my attention when Ms. Miller made her request with respect to the stay of the revenue bond litigation.

With respect to the latter point, Your Honor, as we noted yesterday, there has been an understanding reached with the Unsecured Creditors Committee, and that's been captured in a -- what we refer to as the committee agreement. It was noted in the Plan of Adjustment that was filed on Monday.

And as part of that, there is a request, or a process to be in place with respect to the adversary proceedings, or the avoidance actions that are going to be transferred into the avoidance actions trust, and the activities that will be undertaken in the interim process by the Special Claims Committee.

So as part of that, Your Honor, just like Ms. Miller said with respect to the revenue bond litigation, the Creditors Committee and the Special Claims Committee/Oversight Board will be preparing a motion to seek a stay of those proceedings, a formal litigation stay.

That doesn't mean the matters cannot be settled in the interim, and there will be a process for that, but we wanted to stop the litigation process at this point in time until there would be a formal hand-over of those avoidance actions to the trust itself.

We just wanted you to be aware of that, Your Honor, because we will be filing it, and there are certain time commitments in the interim. So just a point of information for the Court.

THE COURT: Thank you. Judge Dein and I both appreciate that head's up, and we'll look forward to the filing.

MR. ROSEN: Thank you, Your Honor.

Your Honor, there are two other points that you asked me about just before the break. One was with respect to the Fiscal Plan Compliance Act, or I think it's referred to as Act 26. And we had the opportunity, or at least I had the opportunity to drill down a little bit on that during the break, and specifically took note of the Order of Memorandum decision and the Order of Judge Dein on May 17 of this year.

And in that decision, Judge Dein went through the process -- and that decision, by the way, Your Honor, was in the context of a discovery request between Ambac, AAFAF, et cetera. And Judge Dein went through, in the background sections of her decision, the process that has been undertaken, the compliance that has been done by virtually all of the entities, but I believe six. And it was during that decision where she denied any additional discovery.

Your Honor, what we'll do is we have had an opportunity to go through that with AAFAF during the break. We will update the Disclosure Statement to include the information from Judge Dein's decision, as well as any further information that AAFAF is permitted to give us during the period subsequent to May 17th.

I hope that answers the Court's question on that one.

THE COURT: Thank you. I'll look forward to seeing the revision. It won't surprise you that I haven't memorized Judge Dein's May 17 memorandum decision, so I don't know precisely what you'll be writing, but it sounds like an improvement.

MR. ROSEN: Thank you, Your Honor. And it was some news to me. I knew it existed, but I didn't know the details of it. So I'm glad I read it during the interim.

The second question that the Court asked me about was

with respect to the cash, and what has either been denoted as potentially inaccessible, potentially unavailable, or inconclusive. And the information, I think as you correctly noted, was included in a December 2020 blowout or public disclosure. And the information that was set forth in there has already been uploaded, and has been in the data room for some period of time.

Likewise, Your Honor, we have included in the Disclosure Statement itself updated information from that, because we were able to bring it down or bring it more current to March of '21. And that information has also been uploaded to the data room.

We will go through, nevertheless, Your Honor, to make sure that what's in the Disclosure Statement is the most up-to-date, but I believe it is. But we will try and put some more numbers with respect to some of these categories that may not be as complete as the information that is already in the data room itself for the benefit of anyone who wants to look there.

THE COURT: Thank you. I think there was also concern about clarification of the nomenclature to what's in the collective term and what's not, so if you can keep that in mind as you go through the truing up and updating, that would be quite helpful.

MR. ROSEN: We will absolutely do that. I have the

so-called definitions, or at least paraphrasing them, that have been given to me, and we will make sure the Disclosure Statement clearly says what they are.

THE COURT: Thank you.

MR. ROSEN: With that, Your Honor, I don't think we have anything further to add with respect to any of the three items, the Disclosure Statement, the solicitation procedures, or the confirmation procedures; and we look forward to hearing additional guidance from you.

THE COURT: Thank you.

So, at this point, I will articulate at moderate length my preliminary rulings that flesh out the intentions that I expressed this morning as informed by the arguments yesterday and further remarks today with respect to the objections that were argued yesterday, the confirmation and discovery schedule, and the tweaks to the solicitation procedures.

So pending before the Court is the *Amended Joint Motion of the Commonwealth of Puerto Rico, the Employees Retirement System of the Government of the Commonwealth of Puerto Rico, and the Puerto Rico Public Buildings Authority for an Order (I) Approving Disclosure Statement, (II) Fixing Voting Record Date, (III) Approving Confirmation Hearing Notice and Confirmation Schedule, (IV) Approving Solicitation Packages and Distribution Procedures, (V) Approving Forms of*

Ballots, and Voting and Election Procedures, (VI) Approving Notice of Non-Voting Status, (VII) Fixing Voting Election and Confirmation Deadlines, and (VIII) Approving Vote Tabulation Procedures.

That motion is at Docket Entry No. 16756 in Case No. 17-3283, and I'll refer to it as the "Motion", which was filed by the Oversight Board, as representative of the Commonwealth of Puerto Rico, the Employees Retirement System of the Government of the Commonwealth of Puerto Rico ("ERS"), and the Puerto Rico Public Buildings Authority ("PBA"). The Court will refer to the Commonwealth, ERS, and the PBA together as the Debtors.

I note that the Disclosure Statement and Plan have been modified since the objections were originally filed, and so to the extent the Court refers to the latest versions of the Disclosure Statement and Plan of Adjustment, it is referring to the Fifth Amended Plan filed at Docket Entry No. 17306 and the Fifth Amended Disclosure Statement filed at Docket Entry No. 17308.

The Court has considered carefully the Motion, the objections to the Motion that were argued yesterday, and the responses to those arguments, correspondence directed to the Court regarding the Disclosure Statement and the proposed Plan that are within the scope of matters taken up over the past two days, and as I said, today's argument.

As I noted at the beginning of today's agenda, Ambac, FGIC and the Oversight Board have requested, and I have granted, a continuance of this hearing to July 27th with respect to the objections of Ambac and FGIC. As such, although I will now -- I have considered and will now rule on the objections advanced by parties other than Ambac and FGIC, I will not issue a final ruling or enter an order resolving the Motion until Ambac and FGIC's objections have been resolved one way or another, whether by argument or by withdrawal of those arguments.

Many of the objections that I have considered are to specific substantive and economic features or alleged consequences of the Plan of Adjustment, including, among others, the discharge of certain claims, the propriety of the proposed classification, and treatment of claims held by certain creditors, and the economic feasibility of satisfying the Commonwealth's liabilities in the manner contemplated by the Plan of Adjustment.

These are serious issues, and they reflect important aspects of the proposed Plan of Adjustment that could affect large numbers of people. The adequacy and legality of the proposed Plan of Adjustment, however, are issues that principally will be addressed in connection with the Oversight Board's request for confirmation of the Plan of Adjustment.

The principal question now is whether the proposed

Disclosure Statement provides information sufficient to permit a hypothetical creditor or investor to make an informed judgment about the proposed Plan of Adjustment. With the exception of some deficiencies that the Court will direct the Oversight Board to remedy, the Court is satisfied that the objections of the parties who have thus far presented their arguments do not present issues with respect to which the Oversight Board has not met its burden of demonstrating the adequacy of the proposed Disclosure Statement, nor do they raise issues that would render the Plan of Adjustment patently unconfirmable.

The Court first turns to classification-related objections. Several parties have raised objections to the classification scheme within the proposed Plan of Adjustment. In relevant part, those parties argue that the First Circuit's decision in Granada Wines, Inc. v. New England Teamsters & Trucking Industry Pension Fund, 748 F.2d 42 (1st Cir. 1984), precludes confirmation of a plan that separately classifies claims that are of equal rank and are against the same property, as a matter of law and regardless of any government or business justification that the Oversight Board might proffer to justify such classification.

For convenience, the Court will refer in these remarks to Granada Wines generally, even though we are only concerned today with the legal discussion in section 2.c of

the First Circuits's opinion, and not with the First Circuit's other holdings in that decision.

Although different parties have raised objections concerning the separate classification of different kinds of claims, the common denominator among these objections is the parties' contention that separate classification of similar claims would conflict with the principles stated in Granada Wines (or in other case law from courts in the First Circuit relying upon Granada Wines) and render the proposed Plan of Adjustment unconfirmable.

As to this set of issues, the Court has carefully reviewed the relevant pleadings and listened to and considered the arguments of the past two days. For the following reasons, the Court will overrule the classification-based objections to -- that have been argued thus far, to approval of the Disclosure Statement, without prejudice to the parties' ability to raise objections in connection with the Plan confirmation process concerning the Oversight Board's justifications for its classification decisions, and whether the classification and treatment proposed in the Plan of Adjustment otherwise meet the requirements of Section 314(b) of PROMESA.

The Court recognizes that Granada Wines is, in general, binding law that has not been overruled by the First Circuit. As such, several of the arguments raised by the

Oversight Board concerning Granada Wines' underpinnings and, fundamentally, whether it was decided correctly are simply not appropriate bases for adjudication of the issues at hand now.

Similarly, although the Oversight Board contends that the relevant portion of Granada Wines cited by the objecting parties is dicta, this Court would not lightly cast aside reasoned analysis from the First Circuit simply because it was not absolutely necessary to the resolution of that case, and so the task before the Court today is to determine whether the principles in Granada Wines preclude, as a matter of law, the classification scheme in the proposed Plan of Adjustment.

To begin with, although certain parties have described Granada Wines as a case interpreting section 1122(a) of the Bankruptcy Code, the Court disagrees with that characterization. As the Bankruptcy Court for the District of Massachusetts noted in In re Charles Street African Methodist Episcopal Church of Boston, the plain text of section 1122(a) of the Bankruptcy Code "limits the circumstances in which claims may be joined together in a single class. It does not require that substantially similar claims be joined together in the same class." 499 B.R. 66, 95 (Bankr. D. Mass. 2013). Granada Wines itself does not quote, cite, or even refer to section 1122. Moreover, although the objecting parties here contend that Granada Wines effectively represents the First Circuit's interpretation of the phrase "substantially

similar," that phrase does not appear anywhere in that opinion, nor in any of the three pre-Bankruptcy Code cases cited in the relevant section of that opinion.

Accordingly, the Court concludes that the passage of the Granada Wines opinion that is at issue here is not an interpretation of section 1122 in Chapter 11 cases, but, rather, represents the importation of a classification rule from Chapter X of the Bankruptcy Act into the First Circuit's Chapter 11 jurisprudence.

With that, the next question is whether that rule derived from Bankruptcy Act jurisprudence was imported into PROMESA, and the Court concludes that it was not.

As both this Court and the Court of Appeals have recognized, PROMESA is more akin to Chapter 9 of the Bankruptcy Code than it is to Chapter 11. "Unlike a commercial bankruptcy, which attempts to balance the rights of creditors and debtors, the principal purpose of Chapter 9, and, by analogy, PROMESA, is to allow municipal debtors the opportunity to continue operations while adjusting or refinancing their creditor obligations." And that quote is from Andalusian Global Designated Activity Co. v. Fin. Oversight & Mgmt. Bd. for P.R., 954 F.3d 1, 7-8 (1st Cir. 2020).

The Granada Wines classification rule is one that is protective of the interests of creditors, at the expense of

the flexibility of a debtor to craft a plan of reorganization that "focuses on factual and practical considerations, and gives the debtor discretion to form classes based on such considerations." In re Barney & Carey Co., 170 B.R. 17, 23 (Bankr. D. Mass. 1994). Because PROMESA contains provisions that are "respectful and protective of the status of the Commonwealth and its instrumentalities as government," and here I'm quoting from Financial Oversight and Management Board for Puerto Rico v. Ad Hoc Group of PREPA Bondholders, 899 F.3d 13, 21 (1st Cir. 2018), the Court does not readily assume that the creditor interest-focused principle adopted in Granada Wines is impliedly adopted by PROMESA.

A review of the text of PROMESA reveals that Granada Wines' classification principle simply is not present on the face of the statute, and where Congress wanted to enhance creditor protections within PROMESA, as compared to existing bankruptcy law, it did so. For example, section 407 creates a cause of action to protect creditors against certain transfers of property that compromise creditors' interests. And section 303(3) of PROMESA expressly preempts certain kinds of unlawful executive orders that alter creditors' rights or divert funds between territorial instrumentalities.

Although certain parties have argued that section 301(e) of PROMESA recognizes or imports the Granada Wines rule, the plain text of section 301(e) shows that it concerns

how the Oversight Board interprets section 1122(a) of the Bankruptcy Code. It does not expand the scope of section 1122(a). The Granada Wines strict classification approach isn't the majority rule nationwide, so it seems unlikely that Congress would have assumed its applicability as a background rule. Even though Granada Wines' classification rule has been followed by most courts within the First Circuit, Congress could not have known for certain that venue for Puerto Rico's Title III cases would be placed within the First Circuit; section 307(b) of PROMESA potentially allows venue in any district court in which -- sorry -- in any district in which the Oversight Board maintains an office.

At the same time, the flexibility to separately classify and treat claims from different unsecured creditors potentially strengthens Title III debtors' ability to propose plans of adjustment that protect the viability of the government and its instrumentalities, and the ability of the government to continue to provide services to its people, and to ensure the economic viability of the territory. For example, PROMESA contains multiple provisions that are protective of pensions, and separately classifying and treating pension claims or employee claims could potentially contribute to that broader goal. As such, the Court finds no basis to import the Granada Wines strict classification principle into PROMESA.

The Court notes and wants to make clear that it has not determined that the Plan of Adjustment classification scheme is proper and lawful at this point. Rather, the Court is simply overruling the Disclosure Statement objections thus far presented that contend that the classification scheme is structurally impossible as a matter of law. This decision does not preclude factual and legal challenges to the debtors' proffers of justification for classification decisions, nor does it preclude unfair discrimination arguments, objections directed to whether the proposed Plan is in the best interest of creditors, or other objections arising from section 314(b) of PROMESA.

The Court next turns to several objections to the Disclosure Statement that have been heard that are now overruled. To the extent that several objectors complained that certain claims are not dischargeable, be they constitutional claims, claims arising under federal law, or administrative expense claims, the Court has thoroughly considered the objections, and overrules them in connection with this Disclosure Statement motion practice, because such objections challenge the confirmability of the Plan, and none of them poses a pure question of law that would render a confirmation futile or unfeasible at this stage, particularly since this Court has the authority to exercise its power, under section 944(c)(1) of the Bankruptcy Code, to preclude

certain debts from discharge at the confirmation stage if it finds doing so necessary. With respect to the *DRA Parties' Motion for Allowance of an Administrative Expense Claim*, which is Docket Entry No. 17009 in Case No. 17-3283, and their new adversary proceeding, AmeriNational Community Services, LLC v. Ambac Assurance Corporation, et al., which is Adversary Proceeding 21-68, the DRA parties are directed to meet and confer with the Oversight Board and other opposing counsel on when and in what procedural context, be that confirmation or otherwise, the DRA parties' administrative expense claim and adversary proceeding contentions should be presented to the Court, and to file a joint status report after they have met and conferred. That joint status report is to be filed by July 23, 2021, at five o'clock Atlantic Standard Time.

To the extent that several objectors complain that the release, exculpation, and injunction provisions of the Disclosure Statement and Plan of Adjustment are impermissibly vague and do not identify the claims and entities that are being released, exculpated, or enjoined, the Court has thoroughly considered those objections and overrules them, because the Court is persuaded that, to the extent such language was formerly unclear, it has since been revised to resolve most of those questions at sections 1.264, 1.265, 1.401, and 1.402 of the Fifth Amended Plan, and the Oversight Board's counsel has undertaken again today to review for

further clarification and tightening of the language as may be necessary. Any remaining objections to the specifics and scope of these provisions, including any objections regarding the propriety of third-party releases and invocations of the five-part test articulated in In re Master Mortgage Investment Fund, Inc., 168 B.R. 930, 937-38 (Bankr. W.D. Mo. 1994), no longer pertain to the adequacy of the information contained in the Disclosure Statement, and instead pertain to confirmability. Such objections are, therefore, overruled in connection with this motion practice.

Several parties objected to the lack of information in the Disclosure Statement concerning the risk to the Commonwealth of adverse determinations in the Revenue Bond litigation, or of the risk that the Revenue Bond litigation will not be concluded within the Oversight Board's contemplated confirmation timeframe. The Oversight Board has addressed that general contention in revisions to the Disclosure Statement, and we have also been informed today of agreements in principle that will also lead to a stay of those proceedings, in contemplation of their resolution through the agreement in principle. So those objections are overruled.

To the extent certain objectors have raised arguments concerning the Oversight Board's theory of preemption of appropriations statutes, the Court concludes that those arguments concern the feasibility of the proposed plan and

require further factual development in that they do not render the plan patently unconfirmable. As objections to the adequacy of the Disclosure Statement, they are overruled.

Several parties have raised objections that the Plan violates section 1123(a)(4) by allegedly treating other claimants in the same class or in other classes in a disparate manner. These objections have not demonstrated that the proposed plan is patently unconfirmable, and the parties may litigate as necessary whether the proposed treatment is the "same" for purposes of section 1123(a)(4) in connection with confirmation. They are overruled as objections to the adequacy of the Disclosure Statement.

Parties' objections concerning whether the plan unfairly discriminates against certain classes or claims are also overruled. Such arguments are properly raised in connection with plan confirmation as they concern issues that require factual development.

The DRA Parties' objections alleging that the proposed plan is a sub rosa HTA plan, that the plan violates Article VI, Section 8 of the Puerto Rico Constitution, and that the settlements underlying the plan should not be approved do not preclude approval of the Disclosure Statement, as they do not meet the high threshold of patent unconfirmability. Those objections are, therefore, overruled without prejudice to renewal in connection with plan

confirmation.

Parties' objections concerning the Oversight Board's failure to define essential services in the Disclosure Statement are overruled. The Oversight Board's revisions to the Disclosure Statement sufficiently address such objections.

To the extent parties object to the Disclosure Statement's feasibility analysis as based on outdated financials, such objections are overruled. The Oversight Board's revisions to the Disclosure Statement sufficiently address the objections.

The Court will now turn to the categories of objections that it sustains, and the Court will address each such objection in turn.

First, to the extent several objectors have complained that the Disclosure Statement does not hew closely to Rule 3016(c) of the Federal Rules of Bankruptcy Procedure, the Court concurs and hereby directs the Oversight Board to describe in specific and conspicuous language, bold, italic or underlined text, all acts to be enjoined and identify the entities that would be subject to the injunction. This is, of course, also related to the exculpation and protective language issues that the Oversight Board has undertaken to examine again and tighten up.

Certain objections have argued that the proposed Disclosure Statement is inadequate because it does not include

and rely upon audited financial statements. While the Court concludes that audited financial statements are not required, the Oversight Board is directed to include in its risk disclosures a statement that it has used data provided by the government, and that neither the Oversight Board nor the elected government will vouch for the accuracy of that data.

Certain objections have argued that the proposed Disclosure Statement is inadequate because it does not include sufficient information concerning cash available to the debtors and the Commonwealth's cash restriction analysis. The Court sustains such objections to the extent that it hereby orders the Oversight Board to include a disclosure that there are creditors who are conducting their own investigations into cash available to the Commonwealth, and may challenge whether the Oversight Board's restriction analyses are correct. The additional disclosure should also state that the Court may be asked to determine whether available cash should have been considered in formulating the Proposed Plan, and that if the Court finds that additional cash should have been considered and available for distribution under the Proposed Plan, there is a risk that the Debtors may not be able to demonstrate satisfaction of confirmation standards.

I also note here that the Oversight Board has undertaken to update, clarify, and tighten up as necessary its disclosures concerning cash.

Several objections concern inadequate disclosure regarding legislative approvals that are contemplated under the Proposed Plan of Adjustment. The Court sustains the objections to the extent that the Oversight Board is directed to supplement its Disclosure Statement to provide information disclosing: (i) the Commonwealth Government's position on the proposed Plan, (ii) legislative barriers to government support for the Plan, (iii) risks associated with failure to obtain legislative approval for each legislative measure contemplated under the Plan, and (iv) risks associated with Plan implementation should the Oversight Board fail to obtain legislation contemplated in the Plan.

The Oversight Board has undertaken to clarify the discussion of the collateral that the DRA parties claim secures a particular loan, and so that is a way of fulfilling this direction that the Oversight Board is directed to supplement or revise the Disclosure Statement to include information as to the basis of its position as to the value of the claimed collateral.

Just one moment.

As to Mr. Hein's objection, which I also discussed this morning with Oversight Board's counsel concerning potential risks and costs associated with the issuance of multiple kinds and maturities of bonds, and the rationale for structuring distributions in that manner, the Oversight Board

has undertaken and is directed to make plain the structure for the distributions, and to disclose risks related to effects on marketability of fractional bonds, and the need to consult with tax advisors regarding the tax implications of the distribution.

And an illustrative chart or other plain description of the different maturities and relevant features in a manner that would be comprehensible to hypothetical creditors of the relevant classes is also to be included.

With respect to Mr. Hein's objection concerning the failure to disclose tax characteristics and tax consequences of bonds to be issued under the Plan, the Oversight Board is directed to supplement the Disclosure Statement to provide such information, to the extent available, in a manner consistent with section 1125(a) of the Bankruptcy Code. To the extent tax information is unavailable, the Disclosure Statement should disclose that and explain why.

So, in conclusion of this aspect of the preliminary ruling, and for the removal of doubt, to the extent that a particular issue or objection, other than objections of Ambac and FGIC, has not been specifically addressed by this Court, it has been considered thoroughly and is overruled without prejudice to renewal in connection with plan confirmation.

I now turn to the solicitation procedures aspect of the Order, and as with my remarks concerning the request for

approval of the Disclosure Statement, these rulings approving procedures are subject to change and may be modified in connection with adjudication of objections by Ambac and FGIC.

The Court will now make some rulings with respect to the structure of the solicitation procedures proposed by the Oversight Board, and soon after this hearing, the Court will enter an order reflecting these preliminary rulings. And when the Oversight Board files its next iteration of the Disclosure Statement, these oral rulings are to be incorporated into the written order and appropriate sections of the Disclosure Statement.

To the extent that the solicitation procedures seek an order setting a deadline for the filing of initial objections to the Proposed Plan, and adopting the Oversight Board's proposal to require any party who wishes to take discovery to file an initial objection, the Court denies the Oversight Board's request and declines to adopt the initial objection procedure.

The Board is hereby directed to re-configure the discovery deadlines in the Solicitation Procedures Confirmation Hearing Notice, and any other relevant schedules, to conform to the revised schedule for confirmation and discovery that the Court will discuss shortly and also summarize in a separate order relating to the Confirmation Procedures Motion.

So that is a reminder that there is overlap, and you'll have to reconcile the two orders.

The Oversight Board must amend the proposed Confirmation Hearing Notice in the following respects:

First, add to paragraph 10(a) a specific requirement that objections and responses to confirmation must be in the English language.

Second, clarify that the requirement in paragraph 10(d) that objections to confirmation are to be filed electronically -- I'm sorry, clarify this requirement in paragraph 10(d) that objections to confirmation are to be filed electronically or, if and only if the individual objector is not represented by counsel, with the Clerk's Office at the address provided.

As to paragraph 17 of the Proposed Confirmation Hearing Notice, the Oversight Board is to amend it to include a website address for accessing a form Rule 3018 Motion that the Oversight Board has indicated it will have posted on the Prime Clerk website, and that form 3018(a) Motion shall instruct the creditor to identify itself and provide the relevant claim number, and leave space to set forth the grounds for the creditors' request for temporary allowance of its claim, and the form should include instructions for filing and serving the motion.

The deadline for filing objections to claims or

requests for estimation shall be 40 days prior to the voting deadline, rather than 20 days prior to the deadline.

The Solicitation Package shall include a hard copy of the Unsecured Creditors Committee's recommendation letter as to relevant claims, and instructions for how and where creditors can obtain and review hard copies of the Disclosure Statement and Proposed Plan. And copies of the Disclosure Statement and Proposed Plan should also be made available at the ballot drop centers that the debtors are establishing for submitting ballots.

In order to ensure that those who need paper copies get them in a timely fashion, the Court is directing and the Order shall include a provision that upon receipt of a request for a paper copy of the Disclosure Statement and/or Plan of Adjustment, Prime Clerk shall, within one business day of receiving the request, deposit the requested documents with a postal or shipping service to deliver to the requester by service no slower than second-day delivery.

The debtor shall also amend the Confirmation Hearing Notice to include a provision that creditors who are not entitled to vote on the Plan or do not vote will still receive any distribution that they are entitled to under a confirmed plan with respect to an allowed claim. To the extent that the debtors need to clarify which parties have the right to vote, the clarifications should be included in the revised proposed

order.

Now I turn to the Confirmation Procedures Motion. Before the Court is the *Motion of Debtors for an Order Establishing, Among Other Things, Procedures and Deadlines Concerning Objections to Confirmation and Discovery in Connection Therewith*. That is Docket Entry No. 16757 in Case No. 17-3283, and I will refer to that as the Confirmation and Discovery Motion.

The Court has reviewed the relevant pleadings with care, and listened carefully to the arguments yesterday and today. These preliminary rulings assume, for present purposes, that a disclosure statement will be approved by around the end of this month, but the Court obviously has not made that decision yet. Nevertheless, in order for there to be a practical possibility of holding confirmation hearings beginning in November, as proposed by the Oversight Board, discovery will need to begin immediately, and it is important for the parties to have a sense of the overall framework that the Court contemplates.

As I have explained earlier, and the Oversight Board has undertaken to do, the Oversight Board is expected to immediately convert the Disclosure Statement Depository into a Plan Depository, and upload within the week the documents that it has agreed to upload in connection with confirmation, so that discovery can begin promptly upon the approval of a

disclosure statement.

The Court recognizes the importance of bringing these Title III proceedings to closure so that Puerto Rico can move forward, but also recognizes the need for creditors to obtain discovery in order to fairly evaluate the Proposed Plan and to challenge it, if they deem it appropriate. Fulfillment of the Oversight Board's request to begin confirmation hearings in November is dependant on the Government Parties' cooperation in discovery.

As I indicated this morning, the Court expects that the Oversight Board and AAFAF will promptly and fully respond to discovery requests, and I will not hesitate to delay the start of the confirmation hearing if the parties don't act cooperatively, and that includes requesting parties as well.

The schedule that I'm prepared to outline could change very quickly if there's a pattern of foot dragging or non-disclosure or unnecessary objections that have to be managed by the Court, and, as I mentioned, this goes for creditors, too. They need to attend to and moderate the volume and scope of discovery requests so that precious resources are not wasted. The Court does expect that parties taking discovery will use their best efforts to avoid duplicative discovery requests.

The Court also reminds the Oversight Board to be very careful with its confidentiality designations with respect to

documents in the depository, and to make sure that only documents that are truly confidential are so designated. Failure to apply appropriately the protections afforded confidential information may have adverse consequences.

The Court will now make several rulings with respect to the structure of the confirmation and discovery schedule proposed by the Oversight Board, and I will mention certain key dates and deadlines in my oral preliminary ruling that I'm making now. These rulings will address the major objections raised by the various objecting parties, and soon after this hearing concludes, the Court will enter an order containing a schedule with aspirational specific discovery and confirmation related deadlines. The parties will be free to adjust the specific dates set by the Court for any discovery matter without leave of Court except for those dates relating to the filing of matters with the Court and hearing dates, and, of course, any internal adjustments need to be agreed adjustments unless they are made by Court order.

Within 24 hours of the Order summarizing this schedule, the Oversight Board is directed to file a revised proposed Confirmation and Discovery Procedures Order that incorporates these rulings. The Court will not issue a final confirmation and discovery schedule, if it is appropriate to issue one at all, until after a decision on the Motion to Approve the Disclosure Statement is made, but filing an

updated revised proposed order will make the parameters that the Court is intending to set that much more available and transparent to people.

When the Confirmation Hearing Notice is sent out by the Oversight Board, a copy of the Confirmation and Discovery Procedures Order, as ultimately entered by the Court, must be included.

I already talked about conversion of the depository and uploading, so I don't need to repeat that. Pardon me. I'm working from notes and trying not to be repetitive.

The Court declines to adopt the Oversight Board's initial objection provision, and declines to limit the scope of discovery in connection with plan confirmation to the parameters of any such initial objection. Rather, any creditor or party in interest who wishes to take discovery in connection with plan confirmation must simply file a notice of intent to object to the Plan. Assuming that a disclosure statement is approved by the end of this month, the notice of intent to object would have to be filed by August 3rd, 2021.

The failure to file a notice of intent to object won't prevent anyone from filing an objection to the confirmation of the plan, but it would exclude them from participating in discovery. Creditors will file their final objections to plan confirmation at the close of the discovery period, which is estimated to be on or about October 19th,

2021.

The Debtors will be required to file an opening summary brief describing what they believe -- expect to prove at confirmation, and their initial witness list, including the topics for which each witness is expected to testify, and that is to be done at the outset of the discovery period, which is expected to commence on or about August 3rd, 2021. The Debtors will have an opportunity to amend their witness list and make further filings at the close of discovery and shortly before the confirmation hearing.

Creditors will file their initial witness list, including the topics for which each witness is expected to testify, after document production, but before depositions, that is, on or about September 13th, 2021. Creditors will also have the opportunity to amend their witness lists.

The Debtors will not have the right to veto discovery requests, and parties entitled to take discovery do not need to certify that any discovery request is reasonably necessary. If the Debtors believe that any information requested is already in the Plan Depository, they can direct the requesting party to such documents with specificity.

Responses and objections to document requests shall presumptively be due ten days after the request is served, unless the parties agree to an extension, where an extension is allowed by the Court. Follow-up document requests will be

permitted provided they are served in time to be answered within the fact discovery period. Discovery requests directed to third parties will also be permissible provided that such discovery must be completed within the fact discovery period as well.

Parties who have filed a notice of intent to object to the Plan may serve up to 15 interrogatories, including subparts, provided that such interrogatories are served with sufficient time to respond before the close of the discovery period. Unless otherwise agreed or ordered by the Court, answers to interrogatories are due ten days after service of the interrogatories.

Parties who have filed a notice of intent to object to the Proposed Plan may serve requests for admissions, but such requests for admissions shall be limited to authentication of documents, and they can be served toward the conclusion of discovery.

All depositions shall be limited to a seven-hour timeframe unless otherwise agreed or an exception is ordered by the Court.

With respect to the Debtors' obligation to prepare a privilege log, the Court declines to address this issue at this time and will rule on whether a privilege log is necessary in connection with specific discovery disputes.

In the event of any discovery dispute, the Debtors

and the creditors involved in the dispute shall (1) meet and confer in an attempt to resolve the dispute, and (2) if it is not resolved within one business day of the meet and confer, the Debtors and the relevant creditors shall inform the Court of the existence of such dispute via telephone, and the Court shall schedule a chambers conference, telephonic, virtual or in person as soon as possible to resolve this dispute.

When I refer to the Court in this context, I am referring to Magistrate Judge Dein, who will be supervising this process.

Each party to the dispute shall provide the Court with a letter, within three business days of the meet and confer, describing the issues and their position. Pending resolution of the dispute, the parties shall cooperate and provide discovery which is not the subject of the dispute. The discovery will be overseen by Magistrate Judge Dein.

Fact discovery will be followed by expert discovery, with a limited period of overlap. As detailed in the timetable which the Court will enter shortly, fact discovery will take place from August 3rd, 2021, until October 11th, 2021, again assuming that there is an approval order for the Disclosure Statement, and that it is consistent with the feasibility of that timeframe.

Opening expert reports shall be served on September 13th, 2021, and rebuttal expert reports shall be due on

October 4th, 2021. Expert discovery is anticipated to conclude on October 18th, 2021.

The Court agrees with AAFAF that the Proposed Confirmation Order should be filed in sufficient time for the creditors to analyze it and to respond. Therefore, the Proposed Confirmation Order shall be filed on October 8th, 2021, objections to the proposed confirmation order shall be filed on October 22nd, 2021, and the Oversight Board's reply shall be filed on October 29th, 2021.

In setting the schedule for trial, which will be scheduled to commence on November 8th, 2021, or thereabouts, I reserve the right to determine the specifics and sequence of issues as appropriate. Direct testimony at the confirmation hearing must be made through a declaration or deposition testimony. Live testimony for direct examination will not be permitted. All witnesses must be available for cross-examination and redirect.

The Court will issue a trial procedures order closer in time to the confirmation hearing that resolves the remaining issues raised in the Confirmation and Discovery Procedures Motion. These issues include, without limitation, whether a party who seeks to cross-examine a witness must file an informative motion, page limits for motions in limine, and scheduling of any pretrial status conferences and motions.

The Court intends to commence the confirmation

hearing on November 8th. It will continue on November 9th, and 10th, the 12th, the 15th through the 18th, the 22nd, and the 23rd.

The Order that the Court will enter following this hearing will have additional dates for discovery deadlines and the filing of pretrial motions to be incorporated into the revised confirmation and discovery schedule proposed order, and, as I stated previously, the parties will be able to consent to adjust the specific dates set by the Court for any discovery matter without leave of Court, except for dates relating to the filing of matters with the Court and hearing dates.

The management of the confirmation scheduling, as well as of discovery, will be referred to Judge Dein, and Judge Dein will periodically check in with the parties to ensure that discovery is progressing and will be completed on time for the hearing to begin on November 8th.

So by tomorrow morning, the Court will file an order reflecting the modifications that must be made to the next iteration of the Disclosure Statement and to the proposed orders approving the Disclosure Statement and the Confirmation Procedures Motion. Those have been stated on the record today, but the Order will have some additional details. As I said, I expect a quick turnaround of the proposed -- the revised proposed Confirmation Procedures Order.

As to revised versions of the Disclosure Statement and the proposed order approving the Disclosure Statement, including redlines of each, since we are putting the next phase of this hearing out to July 27th, I want those to come in not the night before July 27th, but over the weekend. So by the preceding Sunday at 9:00 AM, the revised and redlined documents should be filed.

Any written objections to the new disclosure material, and particularly the modifications made in response to these orders and directions must be filed by Monday at 9:00 AM, which is 24 hours before the continued hearing with respect to Ambac and FGIC, and those objections will be taken on submission.

Thank you all for your patience and for listening carefully. Any further remarks or questions that need to be asked at this point?

MR. ROSEN: No, Your Honor. This is Brian Rosen. Thank you very much for this. We appreciate the time and the thought that went into all of these decisions.

THE COURT: Thank you.

And so our next hearing date is July 27th, beginning at 9:30. It will again be by telephone, and dial in and other instructions will be provided in a procedures order.

I again, as always, thank the court staff in Puerto Rico, Boston, and New York for all of their work. I thank

counsel for their arguments and their assistance to the Court with their filings, and in engaging the Court's questions, requests, and orders.

Stay safe and keep well, everyone. We are adjourned.

(At 3:14 PM, proceedings concluded.)

* * *

U.S. DISTRICT COURT)

DISTRICT OF PUERTO RICO)

I certify that this transcript consisting of 103 pages is a true and accurate transcription to the best of my ability of the proceedings in this case before the Honorable United States District Court Judge Laura Taylor Swain, and the Honorable United States Magistrate Judge Judith Gail Dein on July 14, 2021.

S/ Amy Walker

Amy Walker, CSR 3799

Official Court Reporter